396.

SUPREME COURT OF THE UNITED STATES.

No. 122.

ELIZABETH E. POTTER, APPELLANT,

vs.

SAMUEL R. POTTER AND MAUGER LONDON.

ON APPEAL FROM THE CIRCUIT COURT, U. S., FOR THE DISTRICT OF NORTH CAROLINA.

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GIDEON, print.

ELIZABETH E. POTTER, appt.
vs.
SAMUEL R. POTTER, and MAUGER LONDON.

UNITED STATES OF AMERICA,
Circuit court of the United States, North Carolina district.

In chancery.

Be it remembered, that on the fifth day of May, in the year of our Lord one thousand eight hundred and forty-eight, Elizabeth E. Potter comes into the court before the judges thereof, at the clerk's office, in the city of Raleigh, then and there, by her solicitor, William H. Haywood, jr., and filed in the said court, in pursuance of the statute and rules and pratice of said court, her bill of complaint against Samuel R. Potter and Mauger London, in the words and figures following to wit:

Bill of complaint.

UNITED STATES OF AMERICA,

To the judges of the circuit court of the United States, for the district of North Carolina.

Elizabeth E. Potter, of the city of Philadelphia, and a citizen of the State of Pennsylvania, brings this her bill against Samuel R. Potter, of the county of Brunswick, and a citizen of the State of North Carolina, and Mauger London, of the town of Wilmington, and a citizen of the State of North Carolina; and whereupon your oratrix complains and says, that she is the widow and relict of the late Samuel Potter, who departed this life in the town of Wilmington, in North Carolina, on 29th May, 1847, intestate, seized in fee of large and valuable real estates in North Carolina and South Carolina, and possessed of and entitled to a large and valuable personal property; that the said Samuel Potter, the late husband of your oratrix left surviving him one son, to wit, the defendant, Samuel R. Potter, and three daughters, to wit, Eliza, the wife of John P. Brown, Amelia, the wife of Sterling B. Everett, Amy, the wife of Nicholas Tolly, and also a grandson, John A. Baker, the infant son of another daughter, Mary, who married and died before the said intestate, her father, leaving the said son, her only surviving child, so that your oratrix became entitled to be endowed of the said real estates by having one-third of the same allotted to her to hold during her natural life; and your oratrix became further entitled to one sixth, or a child's part, of all the personal goods of said intestate as her absolute property, according to the acts of the general assembly in such cases made and provided; that, besides the personal property in the actual possession of the said intestate at the time of his death as aforesaid, there were a large

large number of slaves belonging to him, which he had either loaned to his children, or given them in unequal proportions as advancements; and he has likewise advanced to said children, or some of them, by gifts of other property; it is true, the advancements aforesaid, made to any one child, were not of such value, that the said child by bringing the same into hotch-pot, would become excluded from any further share of the intestate's personal property; but the aggregate amount of the values of said advancements would greatly increase the share of your oratrix, upon whom her husband made no settlement; that, besides a sixth or a child's part of the intestate's personal property, your oratrix also became entitled to a year's support for herself and family, to be paid out of the estate of her said husband, according to the act of assembly in such case made and provided, the value of which was not less than eight hundred or a thousand dollars; your oratrix further says, that by the laws of North Carolina she was entitled to take letters of administration upon the estate of her said husband, or to assign that right to another; and upon the solicitation of the defendants to this her bill, she agreed to assign that right to the defendant, Samuel R. Potter, the only son of her husband, which agreement was made by her on the said 29th May, 1847, or the day after it; and she carried it into effect accordingly; the said Samuel R. Potter was duly appointed the administrator of said intestate by the county court of Brunswick, in the State of North Carolina, to wit, at June sessions of said court, A. D. 1847, began and held 1st Monday of June, 1847; and your oratrix further complains and says, that she is not the mother of any of the said children of her late husband, the said Samuel Potter; and all her children were born of her first marriage, and resided, at the time of her said husband's death, in the State of Pennsylvania; whilst she resided with her husband in North Carolina, sometimes at Wilmington, and sometimes at Smithville, in said State; but she and her step-son, the defendant, Samuel R. Potter, lived upon the best terms; and the said Samuel R. Potter had been acting as the manager and agent of his father for some years before, and up to the time of his death; and not only enjoyed the confidence of your oratrix and her said husband, but he also had full knowledge of all the property and its value, and correct information in respect to your oratrix's rights and interest in the said estate; besides your oratrix's affection and respect for the said defendant, there were other reasons to disarm her suspicions, and to put her in the power of any dishonest attempt, on his part, to defraud her. Your oratrix is advanced in years, and wholly without experience in the management of property; and, on the 29th, 30th, and 31st May, 1847, by watchings and anxiety during her husband's illness, for several days and nights preceding, and from a predisposition, on her part, to nervousness, she became ill; and his death overwhelmed her with grief. The defendant, the only son of her deceased husband, professed a warm attachment and deep sympathy for your oratrix; and managed to excite a distrust, on her part, towards the husbands of his sisters by most artful insinuations, if not by charges of selfishness, on their part; moreover, before

your oratrix's husband was buried, and when your oratrix, having no one else with her, was sick, and oppressed by affliction, and at a time when it would have been indelicate to the view of others, and shocking to her own feelings, to seek the counsel of professional advisers, the defendant contrived to secure the aid of the other defendant, Mauger London, a gentleman of the bar, respectably and extensively connected; and they two, by some arrangements between them privately made, planned a scheme for defrauding your oratrix; and with that view, of inducing your oratrix to surrender to the defendant, Samuel R. Potter, her right to administer upon the said intestate's estate; and in pursuance of their said object, the said Mauger London, without representing himself as the attorney of the other defendant, urged your oratrix to consent to an arrangement by which Samuel R. Potter might be administrator of his father; and his apparent disinterested advice, united with the importunity of the said Samuel R. Potter himself, and enforced by the assurance of both of them that it would be the best sort of security for your oratrix's rights and interest, prevailed over your oratrix to assent to their propositions; not, however, until after the earnest declarations of both, that your oratrix's husband had intended to appoint the said Samuel R. Potter his executor if he had been able to execute a will; and by the most solemn protestations of affectionate respect for your oratrix, and a desire to serve her as a friend and a son, by protecting her rights, and securing them to her, against the imputed selfishness of others. Your oratrix does not recollect on what day she signed a written relinquishment of her right to administer on the estate, if she did it in writing at all; but she agreed to it, upon the importunity of said defendant, Samuel R. Potter, and the unsought and apparently disinterested advice of the other defendant, Mauger London, as she believes, on the day or the day after her husband died. From the moment of her consent to this, she regarded the defendant, Samuel R. Potter, as being, in a peculiar manner, the friend, adviser, protector, and agent of your oratrix; and how he abused her confidence and dishonored his professions will be apparent to your honors, from the facts and circumstances hereinafter stated; for your oratrix further complains and says, that the intestate died in Wilmington on the 29th May; his remains were taken to Smithville, a distance of 30 or 40 miles, for interment on the 30th May. Your oratrix, though sick, too sick for the trip, accompanied the remains to Smithville, but was not able to be present at their interment; and, in consequence of her indisposition and private intimations by the defendants, that she had better not remain where she was, to wit, in Smithville, at Dr. Everett's, your oratrix went back to her home in Wilmington the same day. She did not know that Mauger London was on the boat with her until it had reached the landing in Wilmington, or very nearly reached it. She had not requested his attendance, nor did she wish to have it. Neither did your oratrix know that her step-son had returned with him upon the same boat, until it had reached Wilmington, or nearly so; she did not request it nor wish it; yet, soon after your oratrix had got to her home, and there was

no company present, and the rest of the family had been left at Smithville, to wit, on the 31st day of May, 1847, the said Mauger London got into her house without her knowledge, and contrary to her orders; and he and the said Samuel R. Potter opened the subject of an immediate sale by your oratrix of all her rights and interest in her said husband's estate; and the said Mauger London, no doubt having been engaged beforehand to aid and assist the said Samuel R. Potter in procuring a deed of conveyance from your oratrix; your oratrix was sick, nervous, and afflicted; without counsel, in the hands of her professed friend and his attorney, not her's; ignorant of her rights, or the value of her husband's estate, or of her interest therein; unskilled in business, but reposing a false security in the affection of her step-son, whom she had already consented to nominate as the administrator of the estate; and hardly competent to transact with prudence the most ordinary business at the time the said defendants obtruded themselves upon her privacy; and availing themselves of her helpless condition, her ignorance, her confidence, her sickness, and distracted state of mind, and of the absence of any one to counsel your oratrix, and of their more accurate knowledge and greater capacity, surprised and defrauded your oratrix into the signing of a deed dated 31st May, 1847, whereby your oratrix conveyed to the said Samuel R. Potter and his heirs all her estate in dower as aforesaid, and all her share in the personal property aforesaid absolutely, for the paltry consideration of $1,000, and an annuity of $600 per year during your oratrix's life; and even this small price was not secured to her otherwise than by a personal covenant of Samuel R. Potter for the annuity, and his single bond for $2,000. Your oratrix has herewith filed the said covenants and bond, which she has over and again offered to cancel upon a cancellation of her deed of conveyance aforesaid, and your oratrix hopes the defendants will be required to exhibit and produce the said deed of conveyance. Your oratrix further complains and says, that she has lately discovered that the yearly value of the real estates of the intestate exceeds $6,000, and perhaps does not fall short of twice that sum, so that her dower alone was worth at the least $2,000 per year during her life, and her share of the personal property was worth not less than $15,000, and this your oratrix did not know at the time she signed the said deed; and if your oratrix's dower had been worth only the one half, or one third of the sums before stated, and her interest in the personal property worth but the half, or a third, or even the fourth, of the said sum of $15,000, the price agreed to be paid to her was a very paltry one; and the price agreed to be paid to her, and the mode of securing it to her, were together shockingly inadequate, so much so that the defendants have since attempted to escape some of the odium attached to their fraudulent combination, and by pretending that your oratrix intended to make a gift, and not a sale, to Samuel R. Potter, although the contrary appears upon the face of the papers they wrote; and that pretence is likewise contradicted by the time of the transaction and its secrecy, and by the strong facts that your oratrix has a number

of children who are poor, and she owned no other property herself, whilst the defendant, Samuel R. Potter, is quite wealthy, and his wife is entitled to an estate in Pennsylvania worth at least $100,000, besides being the daughter of a wealthy father in the city of Philadelphia. Your oratrix says, that at the time she signed the said conveyance she had no knowledge of the value of her interests assigned and conveyed by it; that she had been persuaded by defendants to believe that the same was not sufficient to secure to her a respectable and independent support; that the defendants, and especially Samuel R. Potter, knew the value of your oratrix's rights and interests, and yet they concealed that information from your oratrix; that so far from giving to your oratrix any correct information in the premises, the defendants, or one in the presence of the other, declared that it was a leading object with the defendant, Samuel R. Potter, in making such purchase, to put your oratrix in an independent position, and provide for her an income sufficient for the support of your oratrix according to her position in society, however it might exceed the income from the property to be conveyed by your oratrix; and perplexed as she was by their importunity, and by distress, sickness, and the impatience of one tortured at the time by a nervous disease, your oratrix might still have resisted all these well devised schemes to defraud her, if she had known the extent of her interest in her husband's estates, and their value, since she would have seen in these facts alone, had she been informed of them, palpable evidence of deception and falsehood in defendants.

Your oratrix further complains and says, that she believed herself irrevocably bound by her agreement to assign to Samuel R. Potter her right to administer on said intestate's estate from the moment she made it. She was so informed by the defendants; and she never knew otherwise until long after the county court had granted him letters for that purpose; that a short while after the signing of said deed, to wit, about the middle of June, 1847, she began to apprehend that the object of her confidential friend and step-son, and his attorney, had been to cheat and defraud her for the benefit of the defendant, Samuel R. Potter, but to what extent she was still ignorant; and upon making complaints to the said Samuel, who had then possessed himself as administrator of all the personal property, and as one of the heirs had got possession of the real estates, instead of giving her true and full information of the value of said estates, &c., the said Mauger London, still combining with the said Samuel R. Potter to deceive and defraud your oratrix in the premises, they did most solemnly declare, the former speaking as a lawyer, that your oratrix could not set aside her said conveyance, nor annul it in any way, no matter what might be the value of it; but he, the said Mauger London, of his own head and for the purpose of giving some color to the pretence that your oratrix had voluntarily approved and confirmed her said conveyance, suggested or advised, and perhaps by direction of the other defendant, he prepared another paper writing, which is herewith filed, and by which the said Samuel R. Potter obliged himself to pay an annuity of $150 to one of

your oratrix's daughters after your oratrix's death; and your oratrix was required to sign some sort of a paper, the purport of which she does not recollect, but whatever it may be, your oratrix says she did not do it freely or with a fair understanding of its effect; and that she was required to sign it without advice; and she was distinctly told by the said Mauger London, the attorney of Samuel R. Potter, before she signed said paper, that she had become irrevocably bound by the before mentioned conveyance, whether she signed the latter one or not; and besides all that, your oratrix was at that time a member of Samuel R. Potter's family, and dependant on him for a home, as she supposed; and the said Samuel R. Potter was the administrator of the intestate and the trustee of your oratrix, and by extorting the said paper writing he only added to the fraud and oppressions which he had attempted to practise upon your oratrix in the premises. Your oratrix says, she has never claimed any thing under the said last agreement, dated in June, 1847, but so far from it, the defendant, Samuel R. Potter, endeavored through his agent in Philadelphia to entrap her into the acceptance of a partial payment thereon, (though nothing had fallen due upon it,) but your oratrix refused to accept it, and in no other way has she recognised the said agreement as binding upon your oratrix.

Your oratrix further complains and says, that she has requested the said Sam'l R. Potter to surrrender up the said deed of conveyance, dated 31st May, 1847, to be cancelled, and to take back his bond for $1,000, and his covenants hereinbefore described of the same date, and of posterior date, and to reconvey and release to your orator, as in equity he ought to do. But now, so it is, may it please your honor, that the said Sam'l R. Potter, combining and confederating with the said Mauger London, how they may injure and defraud your oratrix, doth refuse to comply with this reasonable request of your oratrix; and, on the contrary, the said defendants do insist that the said deed is binding, and that it shall be enforced, &c.

To the end, therefore, that the said defendants may, if they can, show why your oratrix should not have the relief hereby prayed; and may upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answers make to such of the several interrogatories, hereinafter numbered and set forth, as by the note here underwritten they are respectively required to answer, that is to say:

1. Whether Samuel Potter, late of Brunswick, died intestate, and the date of his death, and the place at which it took place?

2. Whether his remains were not removed on Sunday, 30th May, 1847, to Smithville for interment, and who went with them?

3. Whether the plaintiff in this bill is the widow of the intestate, and how old she is, or reputed to be?

4. Whether plaintiff in this bill agreed to assign to the defendant, Samuel R. Potter, her right of administering the estate of intestate, and at whose instance she agreed to do so, and when she agreed to do it,

and where, and who was present at the time of her said first agreement?

5. Whether the plaintiff signed one or more writings to the effect that she had relinquished her right to administer said estate, and the date of each, and the contents of each one, word for word; and who witnessed them; and who else was present?

6. Whether the said agreement to relinquish was made one day and written on another day; and how long before it was written had it been made, and in whose presence?

7. Whether it was made before or after, or at the same time, she signed the deed of conveyance to Samuel R. Potter, and his heirs, for her interests in the intestate's estates, dated 31st May, 1847; and if before, how long before it; and if after, how long after it?

8. Whether the plaintiff in this bill left Smithville on the same day she went there with the remains of her husband; and how she came to do so?

9. Whether the defendants urged her to go or to stay, or neither; and if either, which?

10. Whether she assigned any reasons for leaving Smithville so soon?

11. Whether the defendant London went to Smithville on that day; and with whom, and for what purpose; and by whose invitation?

12. Whether he did not write the deed of conveyance and the bond for $1,000, and the covenants referred to in this bill, and bearing date 31st May, 1847; and also witness them?

13. Whether the other defendant employed him as an attorney or counsellor, or otherwise, to advise him, or in any way to assist him, in the making the said agreements, or any other, with the plaintiff; and how, when, and where he employed him; and what did he pay him for his services, or agree to pay him?

14. Whether any person was present at the negotiation with the plaintiff, or at the signing of said deeds; and why not, if no one was present; and who was it, if any one else was there?

15. Whether the said deeds were signed on the day of their date, or whether they were written on that same day; and where the writing was done; and in whose presence?

16. Whether the said deed of conveyance, dated 31st May, 1847, was not signed by the plaintiff in this bill at her own house; and in what room of the house; and at what hour of the day; and by what means the defendant London gained admission into the house; and whether he did not go there for the purpose of procuring the said agreements to be made, and the said deeds to be executed; and how often he went there?

17. Whether the plaintiff was sick and in bed; or if the defendants pretend not to know then whether she did not complain a good deal of being sick; whether she did not appear to be in great trouble and much distressed; and whether any thing was said, and if so, what was said to her, or by her, at the time said deed was executed, and all that

was said on that occasion by her, and by defendants, or either of them; and by any other person, if any other person was present?

18. Whether an interview of any kind had taken place between these defendants on the subject of said conveyances and deeds before they were made; and what passed between them; and all that passed?

19. Whether notes and letters, or other writings, did not pass between defendants before and on said 31st May, 1847, on the subject of Samuel Potter's, deceased, estate, &c., or on the subject of said conveyances, or, on subjects connected therewith; and if so, then what are the contents of such letters, notes, or writings?

20. Whether the defendants did not tell the plaintiff, after 31st May, 1847, that she was irrevocably bound by her deed, and that it could not be annulled?

21. Whether the defendant, Samuel R. Potter, was the agent or manager of the business of his father, or any part of it, at his death, and before it; and what part of it?

22. Whether the said defendant was or was not fully and accurately informed of his father's estates, and of their value; and if not so informed, then whether he did not possess some degree of knowledge on the subject; and how much he knew about these matters?

23. Whether the intestate did not die seized of the lands and real estate mentioned in the schedule hereto annexed, marked X; and what, in the opinion of the defendants, are the lands fairly worth; and what would they rent for; attaching to each tract its separate value, and the amount of rent for each one?

24. Whether the intestate did not die possessed of a large personal property; and what it consisted of, article by article; especially the names of all his negroes, and a list of his stocks, notes, and other evidences of debt?

25. Whether the intestate had made any loan or advancements to his children; and how much; and what article of value he had advanced to each one?

26. Whether the plaintiff in this bill was not entitled to one-sixth of said personal goods, and to a year's allowance for herself and family, and the value of such an allowance?

27. Whether the defendant, Samuel R. Potter, has found out any property of his intestate since 31st May, 1847, whereof he was ignorant on that day; and what sort of property that is; and its value?

28. Whether the said defendant has not made presents to the other defendant since the death of the intestate; and if so, what sort, and of what value and of what date, and if he has not made him presents, whether he has not loaned to him a thousand dollars, or some such sum, or some other sums of money without taking security for it, and when that was done?

29. Whether the plaintiff in this bill had or owned any other property besides that which she conveyed by her deed before mentioned, dated 31st May, 1847?

30. Whether the defendants, or either of them, informed the plaintiff what was the value of the property she conveyed by said deed?

31. Whether they expressed their opinions to her on that point, and what opinions had they formed of its value when said deed was signed?

32. Whether the crop which had been sowed by the intestate in his lifetime, and which was in the ground at his death, was not sold after his death for a very large amount, and to whom, and for how much? And that the returns of sales or copies may be exhibited in the answer to this inquiry.

33. Whether a settlement of the partnership of P. K. Dickinson & Co. has not been made since May, 1847, and how made, and what fell to the estate of intestate as a partner therein?

34. Whether the plaintiff in this bill was not obliged to borrow money from the wife of the defendant, Samuel R. Potter, to pay for her mourning immediately after her husband's death?

35. Whether the intestate did not die seized of other real estates not mentioned in the list X aforesaid; and if so, where it is situated, and what is its value, and what its yearly value?

And that by a decree of this court the said deed of conveyance of 31st May, 1847, from your oratrix to the said Saml. R. Potter, may be produced and surrendered to be cancelled, and all the rights, estate, interest, and property thereby conveyed may be released, and reconveyed by the said defendant to your oratrix; and that your oratrix may have such other and further relief as her case requires, and is consistent with equity and good conscience. May it please your honors to cause the United States writ of subpœna to be issued to the said Samuel R. Potter and Mauger London, defendants, commanding them personally to appear before the judges of the circuit court of the United States aforesaid, at the next court, to be held at the court-house in the city of Raleigh, on the first Monday of June, 1848, then and there to answer, &c., &c. And your oratrix will ever pray.

WILL. H. HAYWOOD, Jr.
Solicitor and counsellor for plaintiff.

X.

Exhibit or list of real estates of Samuel Potter, deceased, referred to by this bill in interrogatories numbered 35 and 23, viz:

1. One-third of the Gaston steam mill and stock on hand, &c., near Wilmington, N. C., being Saml. Potter's share as a partner with P. K. Dickinson, in a firm of P. K. Dickinson & Co., including a settlement of their partnership accounts. Note. If this interest be real estate, so far as respects the one-third of mill itself, the value of so much goes to the real estate, to wit, $10,000 or $12,000.

2. One-quarter of a steam mill near Georgetown, in South Carolina, being the share of Saml. Potter, deceased, as a partner in a firm, the name of which is not known to your oratrix; partnership unsettled. Note. If the said bill or the share thereof belonging to said Potter, de-

ceased, be real estate, the value of so much goes to the real estate, to wit, $4,000.

3. A lot and improvements in Wilmington, situate on Market street, with a four-story brick building, &c., thereon. A lot and improvements in Wilmington, situate opposite the Methodist church, and known as lot No. 22, letter A. A lot and improvements in the said town, situate on the corner of Surry and Castle streets.

A large and valuable tract of land in New Hanover county, known as the Point Peter plantation, situate near Negro Head point, and lying for more than two miles upon the Northwest river; the same what Saml. Potter, deceased, purchased of Lemuel H. Whitfield.

Another tract of land in the same county, situate on Smith's creek, containing acres more or less, commonly called " ——— Grove."

Another tract of land in same county, called "Cain Tuck," and a smaller tract adjoining it, both containing about 300 acres.

A lot and improvements in Smithville, Brunswick county, situate on Moore and Potts streets.

A lot and improvements in the same town, situate on Moore and Dry streets and Nash street, and joining lot No. 50.

A lot and improvements in said town, joining the southeastern line of Bay street and battery 66 feet, continuing to the channel of the river.

A lot or lots in said town opposite to lots No. 20 and 21, whereon is a range of buildings 100 feet long.

A tract of land in Brunswick county, containing 285 acres, known as the Howe place, situate on Cape Fear river, adjoining James Gerard's lands.

Another tract of land in said county, on Lockwood's Folly river, on the east side thereof, joining the lands of Samuel Frink and William Gauze, containing 320 acres.

Another tract of land on Bachelor's creek and the river, containing 300 acres, in Brunswick county aforesaid.

And another tract of land in said county, on the southwest side of Lockwood's Folly river, containing 100 acres.

The undivided moiety or half of another tract of land in said county, on the southwest side of the same river, containing 100 acres.

Another tract of land in Brunswick county, on the southwest side of Bachelor's creek, joining the lands of Mrs. Mary Hemmingway, containing 200 acres.

The defendants, Samuel R. Potter and Mauger London, are severally required to answer the interrogatories numbered respectively 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, [33,] 34, 35.

WILL. H. HAYWOOD, Jr.
Solicitor and counsel for plaintiff.

Filed with this bill—

An original note of Samuel R. Potter, for $1,000, to plaintiff, dated 31st May, 1847.

An original deed of the same to the same, covenants for payment of $600 per year, dated 31st May, 1847.

An original deed of the same to the same, covenanting to pay $150 per year to Elizabeth Babcock, during her life, to commence at the plaintiff's death, dated 21st June, 1847.

Bill filed 5th of May, 1848, and subpœnas issued the same day.

W. H. H., *Clerk.*

And thereupon, at the request and by the direction of said complainant, Elizabeth E. Potter, by her solicitor aforesaid, writs of subpœna were issued in pursuance of the prayer of the said bill of complaint, in the words following, to wit:

Subpœna.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, November term, 1847.

The President of the United States of America, to Samuel R. Potter, of the county of Brunswick, and a citizen of the State of North Carolina; and Mauger London, of the town of Wilmington, and a citizen of the State of North Carolina:

Whereas, Elizabeth E. Potter, of the city of Philadelphia, and a citizen of the State of Pennsylvania, hath exhibited to the honorable circuit court, for the district aforesaid, a bill of complaint against you, the said Samuel R. Potter and Mauger London; we, therefore, command you, personally to be and appear before the honorable the judges of the circuit court, for the district aforesaid, at the court-house, in the city of Raleigh, on the first Monday of June next, to answer to the bill aforesaid, to our said court exhibited, concerning the several matters of equity in said bill of complaint contained, and to stand to and perform such order and decree as our said court shall make thereon; and this you shall in no wise omit, under the penalty by law.

Witness James M. Wayne, esquire, associate justice of the United States of America, at Raleigh, the Monday preceding the first Monday in December, 1847, and in the lxxi. year of American independence, A. D. 1847.

W. H. HAYWOOD, *Clerk.*

The defendants, Samuel R. Potter and Mauger London, are *are* severally required to answer the interrogatories numbered respectively 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35.

Bill filed May 5th, 1848.

Subpœna issued 5th May, 1848.

W. H. HAYWOOD, *Clerk.*

To which said writ of subpœna, the marshal of the district of North Carolina made return to this court, as follows, to wit:

ELIZABETH E. POTTER
vs.
SAMUEL R. POTTER and
Mauger London.

Subpœna in equity, to be served on **Samuel R. Potter.** **Returnable** the first Monday in June, 1848.

Executed the within, by delivering a copy of the same to Samuel R. Potter in person, this the 13th day of May, A. D. 1848.

WESLEY JONES, *Marshal.*
JERE NICHOLS, *D. Marshal.*

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, November term, 1847.

The President of the United States of America, to Samuel R. Potter, of the county of Brunswick, and a citizen of the State of North Carolina; and Mauger London, of the town of Wilmington, and a citizen of the State of North Carolina:

Whereas, Elizabeth E. Potter, of the city of Philadelphia, and a citizen of the State of Pennsylvania, hath exhibited *for* the honorable circuit court, for the district aforesaid, a bill of complaint against you, the said Samuel R. Potter and Mauger London; we, therefore, command you, personally to be and appear before the honorable the judges of the circuit court, for the district aforesaid, at the court-house, in the city of Raleigh, on the first Monday of June next, to answer to the bill of complaint aforesaid, to our said court exhibited, concerning the several matters of equity in said bill contained, and to stand to and perform such order and decree as our said court shall make thereon; and this you shall in no wise omit, under the penalty by law.

Witness James M. Wayne, esquire, associate justice of the United States of America, at Raleigh, the Monday preceding the first Monday of December, 1847, in the lxxi. year of American independence, A. D. 1847. WM. H. HAYWOOD, *Clerk.*

The defendants, Samuel R. Potter and Mauger London, are severally required to answer the interrogatories numbered respectively 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35.

Bill filed 5th May, 1848.

Subpœna issued 5th May, 1848.

W. H. HAYWOOD, *Clerk.*

To which said writ of subpœna the marshal of the district of North Carolina made return to this court as follows, to wit:

ELIZABETH E. POTTER
vs.
SAMUEL R. POTTER and
Mauger London.

Subpœna in equity, to be served, M. London. Returnable to the court [on the] first Monday [in] June, 1848.

Executed the within, by delivering a copy of the same to Mauger London in person, this the 13th day of May, A. D. 1848.

WESLEY JONES, *Marshal.*
JERE NICHOLS, *D. Marshal.*

And thereupon come the defendants, by their solicitor, J. H. Bryan, esq., and enter their appearance in this cause according to the rules and practice of this court; and on the third day of July, in the year of our Lord one thousand eight hundred forty-eight, the said Samuel R. Potter files his answer to the said bill of complaint, in the words following, that is to say:

Samuel R. Potter's answer.

The separate answer of Samuel R. Potter, one of the defendants to the bill of complaint of Elizabeth E. Potter, of Philadelphia, and citizen of Pennsylvania.

This defendant, now and at all times hereafter, saving and reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiencies in the complainant's said bill of complaint contained, for answer thereunto, or so much and such parts thereof as this defendant is advised is material for him to make answer unto, he answers and says: He admits that the plaintiff in said bill of complaint is the widow of the late Samuel Potter, and that he departed this life in Wilmington, North Carolina, on the 29th day of May, 1847, as charged in said bill, and that the said Samuel Potter died intestate, seized and possessed of large and valuable estates, both real and personal; and the said Samuel Potter left him surviving this defendant, his son; Amy, the wife of Nicholas Tolly; Amelia, the wife of S. B. Everett; and Eliza, the wife of John Potts Brown, his daughters; and John A. Baker, his grandson, as charged in said bill; and that the said plaintiff, as the widow of the said Samuel Potter, was entitled to be endowed of one-third part of the real estate, and to hold the same during her life; that she was also entitled to one-sixth part, or child's share, of the personal property, absolutely; this defendant further answering admits, that the said Samuel Potter had during his life loaned or advanced a number of negroes to his daughters, except to his deceased daughter, Mary, the mother of John A. Baker; but whether the said intestate loaned or advanced the same, this defendant is not advised, and does not know; and that the said intestate did advance or loaned money, and other property, to the husbands of his said daughters, except his said daughter Mary. This defendant further answering, admits that the aggregate amount of advancements would increase the amount of the intestate estate; this defendant further answering admits, that the plaintiff was entitled to a year's support, and that the value of the same is one thousand dollars; this defendant further an-

swering admits, that the plaintiff was entitled to take the administration of her husband's estate, and is advised and believes, she had the right to assign that right to another; but he denies that she assigned her right to administer upon said estate at the solicitation or request of this defendant, or that she made any agreement to assign the same to this defendant on the said 29th May; but says that on Sunday, the 30th of May, 1847, plaintiff proposed to this defendant that he should take the management of the estate, and at the same time proposed to sell to this defendant her interest in her said husband's estate.

This defendant further answering denies that letters of administration upon said estate were granted to him by the county court of Brunswick, but says the same were granted by the county court of New Hanover, on the week of the session of said court, begun on the second Monday of June, 1847.

This defendant admits that plaintiff is not the mother of the children of the said Samuel Potter, and that her children were born of her first husband, and at the time of the said Samuel Potter's death resided in Pennsylvania, and that plaintiff resided in North Carolina; sometimes in Wilmington, and sometimes in Smithville.

This defendant admits, that he has for some years lived in the same house with the plaintiff, and that he had the management of a portion of his father's property, to wit, the rice plantation known as Point Peter and Love Grove, and the hands belonging to the same; but denies that he had the management of any other property belonging to said Samuel Potter. He admits that he knew his late father possessed a large and valuable estate, both real and personal, but denies that he had an accurate knowledge of the same; and believes that plaintiff had as full and accurate knowledge of the same, and the value thereof, as the defendant; and he admits he knew the rights of the plaintiff, and her interests, in the estate; this defendant admits that the plaintiff is advanced in years, and thinks she is about sixty-five years old; but as to her experience about the management of property this defendant cannot say, but plaintiff told this defendant that she had had the management of two estates in Philadelphia.

This defendant further answering admits, that the plaintiff on the first day of June, 1847, did execute the deed referred to in plaintiff's bill, bearing date the thirty-first day of May, 1847, which this defendant is ready to produce when required, (a copy of which is hereunto annexed, marked B,) in which she conveyed and assigned all the right, title, interest, and estate, which she had in the estate of her late husband, Samuel Potter, both real and personal, to this defendant.

And this defendant most positively denies that said deed of conveyance was procured by any contrivance or collusion between him and his co-defendant, or that the same was obtained by fraud, artifice, or misrepresentation, practised by this defendant, as is most unjustly charged in plaintiff's said bill of complaint; but says that said deed was executed of her own free will and accord; proposed at her own suggestion, at her own instance, and upon her special request, to effectuate a pur-

pose which, as she declared, she had much at heart. This defendant further answering denies that plaintiff was sick or distressed during the illness of the said Saml. Potter, or for any time thereafter; and further denies that plaintiff watched with her said husband; but on the contrary says, that he was with the said Samuel Potter during his whole illness, and for eight days and nights was continually in the sick chamber of the said Samuel Potter, and set up with him every night; and during the whole of the said eight days and nights plaintiff never exhibited any grief or distress, and did not set up, as far as this defendant observed, any part of any one night during the said illness of the said Saml. Potter, except the night he died, and then she was awoke by one of the servants, who informed her her husband was dying.

This defendant denies having had any conversation with the plaintiff on Saturday, the 29th of May, 1847; but says, that on Sunday, the 30th, as the procession was forming, and the friends of the deceased were waiting for the family to attend his remains, plaintiff called this defendant, and told him she "wanted to do what was best for him and Marion," (this defendant's wife,) and that she wanted likewise to give up the management of the estate to this defendant, and to sell him her interest in the same; that he was surprised at the proposition of plaintiff, and told her it was time enough to make any arrangements she wished to make; that this defendant and others went to Smithville, in the steamboat with the remains of the deceased, for interment, and returned the same day; that he had no conversation with the plaintiff about the deceased's estate, either on the way to Smithville, or while they were at Smithville, or on the way back to Wilmington, or after they returned, on the said 30th May, 1847; that so far from the plaintiff's being too sick to be able to attend the remains of her husband to the grave, he left her at Dr. Everett's, and went to the grave with the remains of the deceased; and upon his return to Dr. Everett's the plaintiff told this defendant that she was going to the steamboat; that this defendant went with Dr. Everett, from his house to the former residence of the deceased, a distance further than from the steamboat to the place of interment, and found plaintiff; and he denies that he made any intimations to plaintiff that she better not remain in Smithville, or that he induced her to return to Wilmington.

This defendant further says, that on Monday morning, 31st May, 1847, plaintiff said that she had been considering her proposition to this defendant, concerning the sale of her interest in her husband's estate, and had concluded to sell the same to this defendant, for the benefit of her daughter, this defendant's wife, for one thousand dollars in money, and five hundred dollars a year during her life, if he would give her her board and a servant; that this defendant told her that the sum was too small, and she said she knew what the estate was worth, and enumerated most of the property, and said the estate was worth $130,000, and that her dower was worth $1,000 a year, and that she knew the value of the estate as well as any one. This defendant then told her he did not think the estate worth so much, or that the dower was worth so much, but that her interest was worth more than the sum she proposed

to sell it for, and that he would give her $600 a year, $1000, her board, and find her a servant and the year's allowance, whatever the court allowed; and she then said, if you will do that, go and see Mr. London, and tell him to come round and see me.

This defendant further answering denies that co-defendant got into the house of plaintiff without her knowledge, or contrary to her wish; but on the contrary says, that plaintiff expressly told this defendant to invite co-defendant to come to her house, and see her about carrying into effect her expressed wishes about the conveyance of her interest in her husband's estate; and this defendant denies that plaintiff was surprised into signing said deed; or that she was without counsel, for she had sent for and secured the services of Mr. London, a gentleman of the bar, his co-defendant, and says that co-defendant did expressly state to plaintiff her legal rights, and advised her to consult with Mr. Baker and Mr. Dickinson, gentlemen of the town of Wilmington, one of whom was a lawyer of eminence, and son-in-law of the deceased, and the other a partner of deceased, in the Gaston mill; and that plaintiff *she* that she knew the value of the estate, and that she wished to keep the transaction secret.

This defendant further answering says, that at the time of the execution of said deed *that* the said deed was carefully read to her, and positively denies that she executed the same under the influence of false confidence in this defendant, or frauds practised by these defendants, or either of them, or from ignorance of her rights and the value of the estate, or from sickness, or under bodily infirmity, or under the influence of any mental agitation or distress caused by grief, or otherwise; but on the contrary avers, that the conveyance of her interest to this defendant was her own suggestion; that she did the same of her own free will, with a very accurate knowledge of all the property of which the deceased died possessed; that she knew the value of the same, and assigned as a reason for said conveyance, that she wished to benefit her grand-daughter, (this defendant's wife,) and that she intended to live with this defendant and his wife the remainder of her life. And this defendant further says, that besides the consideration mentioned in the said bill, he undertook and agreed to furnish a livelihood and maintenance for the plaintiff so long as she chose to remain with him, which he was at all times ready and willing to perform, which was a part consideration of said deed; and he further agreed that she should have her year's allowance, to be allotted by the county court of New Hanover; and he denies that the consideration for said deed is paltry or greatly inadequate, but admits that the same is of less value than her interest in said estate; that the yearly value of the intestate's real estate does not exceed $1,800, and is not $6,000, as is erroneously charged in plaintiff's said bill; that the value of the personal estate does not exceed $48,000, and the plaintiff's share of the same is not more than $8,000.

This defendant further answering says, that after the execution of said deed, and in pursuance of the agreement, plaintiff resided in the

house of this defendant on terms of amity and friendship, not expressing any dissatisfaction as to the disposition she had made of her interest in her husband's estate, until about the middle of June thereafter. The plaintiff about this time received a great many letters from her connexions in Philadelphia, reproaching her for what she had done, and artfully operating upon her feelings and sympathies, expressing their great disapprobation of her act, and threatening to take legal steps to have the said deed annulled; which operating upon the feelings of the plaintiff produced in her conduct a dissatisfaction, which the defendant observing, asked plaintiff what had occurred to mar her happiness; plaintiff said she had received a great many letters from Philadelphia, and that her friends there were very much dissatisfied with what she had done, and that particularly they blamed her for not making some provision for Mrs. Babcock, plaintiff's daughter; that this defendant told plaintiff that if she was dissatisfied with what had been done, he was willing to give her up the deed; plaintiff said she did not wish him to do that, but she had forgotten to make any provision for Mrs. Babcock, and if defendant would agree to give Elizabeth Babcock $4,000 at her death she would be satisfied; this defendant said he would not do that, but if she wanted the deed back she might have it; she said she did not want the deed, and then proposed that he should give Elizabeth Babcock $150 a year, to commence after her death; he told her that if she would be satisfied with that, and that sum would satisfy her friends in Philadelphia, he would give it to her; but that his wife was opposed to his having any thing to do with the purchase from the first, saying the friends of the plaintiff in Philadelphia would continue to interfere and blame him; plaintiff then said that they would have no cause of complaint if that provision was made for Elizabeth Babcock. Defendant then agreed to grant the annuity of $150 to Mrs. Babcock; plaintiff then proposed to this defendant to send for Mr. London; but he said no; you can send for him yourself; and afterwards, while defendant was in the office of co-defendant, a servant came in, saying that plaintiff wanted to see co-defendant.

The paper writing referred to in plaintiff's bill, by which this defendant covenanted to pay Mrs. E. Babcock $150 a year, bearing date 21 June, 1847, was prepared in accordance with said agreement, and was executed by this defendant on the day it bears date, and delivered to plaintiff; at the same time the plaintiff, in order to have her entire approbation of what she had done, signed the paper in the following words, to wit:

STATE OF NORTH CAROLINA,
New Hanover county.

Whereas Samuel R. Potter has purchased of me all my right, title, interest, and estate, in and to the estate of my deceased husband, Samuel Potter, late of said county; and whereas Elizabeth E. Potter did execute to said Saml. R. Potter a deed, bearing date 31 day of May,

1847, as by reference to the same will more fully appear; and whereas I have expressed a desire to have some provision made for my daughter, Elizabeth Babcock, after my death; and whereas the said Samuel R. Potter hath generously consented to give and grant an annuity of one hundred and fifty dollars, to be paid to my said daughter, Elizabeth Babcock, for and during her natural life, to begin to take effect from and after the date of my death, which grant is evidenced by a deed bearing even date hereof; and whereas the said Samuel R. Potter hath desired me to signify my approval of what has been done concerning the sale of my said interest in said estate; and whereas I feel entirely satisfied with the bargain and sale of the same, and the consideration I have received, and am to receive, from the said Samuel R. Potter for the same, I hereunto set my hand this 21st June, 1847.

Signed, ELIZABETH E. POTTER.

Witness—M. LONDON.

The original of which is now in the possession of this defendant, which he is ready to produce when required.

And this defendant further answering says, that the said paper writing was signed by plaintiff on the said 21st day of June, 1847; that the same was written by co-defendant in her presence, and with her express assent, and read to her, and she approved the same before she signed it; and he denies that the said paper writing was extorted from her, or that any persuasion was used to induce her to sign the same; and says that co-defendant told plaintiff that the object he had in view in her signing said paper was, that in the event of her Philadelphia friends again interfering, that he would have her written assent to the transaction, and her approval of the same; and that plaintiff then said there would nothing more be said about it; for, since a provision was now made for Elizabeth Babcock, there would be no cause of complaint, and that she would sign the said paper writing; that she not only expressed herself entirely satisfied at what she had done at the time, but this defendant is informed and believes that she expressed the same entire satisfaction to others, as to the sale she had made to this defendant of her interest in her husband's estate.

This defendant further answering denies that he executed the grant of the annuity to Mrs. Babcock with a view to add to the force and validity of plaintiff's deed, bearing date the 31st May, 1847, or of satisfying any public opinion which might have been attempted on the part of her Philadelphia friends to be excited against this defendant from the transaction; but, on the contrary, this defendant positively avers that he made said grant because plaintiff had been liberal to him; that she was an inmate of his family, and had proposed to remain with him during the remainder of her life, and from no other motive than to gratify her, and to satisfy her friends in Philadelphia, who were continually reproaching her for not having made provision for Mrs. Babcock, (she the plaintiff having said that such would be the effect;) that the same was a gratuity on his part; that he entertained no doubt of

the validity of the deed of 31st May, 1847, and did not believe that the said paper writing, or any paper writing, would or could add force and validity to said deed, the same, as this defendant again avers, having been fairly executed; she, the plaintiff, being fully advised of its contents, and fully aware of the rights she had in her husband's estates, and the value of the same.

This defendant further answering says, that the plaintiff, at the time of the execution of the deed bearing date 31st May, 1847, (a copy of which is inserted in the foregoing part of this defendant's answer,) she was as well informed and fully advised of the value of the estate of her deceased husband as was this defendant; for that, as this defendant is informed and believes, the plaintiff, both before and after the death of her said husband, on divers occasions, and to divers persons, expressed her knowledge of the value of the said estate, and always over-estimated the same; and that she declared herself to this defendant as knowing more about the value of the estate than he did; and that, on the week preceding the county court of New Hanover, which held its session on the second Monday of June, 1847, the plaintiff aided and assisted this defendant in taking an inventory of the property of his intestate, and exhibited on that occasion a more accurate knowledge of the estate, and of what the same consisted, than this defendant.

This defendant further answering says, he admits that nothing was due upon the agreement dated 21st June, 1847, as charged in plaintiff's said bill, but positively denies that he ever offered to pay plaintiff anything upon the same through an agent in Philadelphia, or otherwise; and says that the first quarter's annuity which this defendant had bound himself to pay plaintiff, by deed bearing date 31st May, 1847, he paid to plaintiff on or about the 5th of June, (plaintiff having applied to this defendant's wife for the same,) and that he tendered, through a friend in Philadelphia, the next quarter's annuity in advance; and, for the first payment as aforesaid, this defendant has the receipt of plaintiff, given by her to this defendant's wife, which he is ready to exhibit, and he denies that he paid the same to plaintiff, or offered to pay the second instalment, for the purpose of entrapping plaintiff, but for the reason that he thought plaintiff would require it.

This defendant further answering to interrogatory number (1) says: That Saml. Potter, the husband of the plaintiff, died intestate, in the town of Wilmington, North Carolina, on the 29th May, 1847.

To interrogatory number (2) says: That the remains of the said Samuel Potter were removed on 30th May, 1847, to Smithville for interment, accompanied by this defendant and his co-defendant, the plaintiff, and a number of the citizens of the town of Wilmington, friends of the deceased.

To interrogatory number (3) says: That the plaintiff is the widow of the said Samuel Potter, and is sixty-five years of age, or thereabouts.

To interrogatory number (4) he says: That plaintiff, on Sunday morning, the 30th May, 1847, at her residence, proposed to assign her right to administer the estate of her said husband to this defendant; that

the proposition was made, at her own instance, in the presence of this defendant's wife.

To interrogatory number (5) he says: The plaintiff signed but one paper writing relinquishing her right to administer said estate, on Tuesday, the 1st June, 1847; that the same had no subscribing witness; was signed in the presence of this defendant and co-defendant, and this defendant's wife, in the following words, viz :

STATE OF NORTH CAROLINA,
New Hanover county.

I hereby renounce my right to administer upon the estate of my deceased husband, Samuel Potter, and would greatly prefer that my son, Samuel R. Potter, should have the administration.

31st May, 1847.

Signed, ELIZABETH E. POTTER.

To interrogatory number (6) this defendant says : That the agreement to relinquish the right to administer was made on Tuesday evening, the 17th of June, immediately after the deed bearing date 31st May, 1847, was executed; and then and there reduced to writing, and signed by the plaintiff in presence of this defendant, of his co-defendant, and wife of this defendant.

To interrogatory number (7) he says : That said paper writing was made and signed by plaintiff a few minutes after the deed, bearing date the 31st May, 1847, was executed.

To interrogatory number (9) he says: That he neither urged the plaintiff to stay, to go to Smithville, or to return to Wilmington.

To interrogatory number (10) he says: The only reason plaintiff assigned was, that she was anxious to do so, as this defendant's wife was alone, and one of her children was sick, and said she would not stay at Smithville for one hundred dollars.

To interrogatory number (11) he says: That his co-defendant did go to Smithville on that day, with divers other persons, but for what purpose, and at whose invitation he does not know, and cannot answer.

To interrogatory number (12) he says: That M. London, esq., his co-defendant, did write the deed of conveyance, bearing date, May 31, 1847, and the deed of covenant referred to, and witnessed them; and he also wrote the bond for $1,000; but does not now remember whether he witnessed it or not, as he has not the possession of it, and has not seen it since.

To interrogatory number (13) he says: He did not employ his co-defendant as an attorney or otherwise to advise him, or in any way to assist him in making said agreement, or any other, with the plaintiff; that he paid him nothing for his writing said deed; but agreed, after said deeds were executed, to pay him for the same in the presence of the plaintiff.

To interrogatory number (14) he says: That at the time plaintiff made the proposition to sell her interest in said estate, viz., on Sunday

morning, no one was present but this defendant's wife; that when the agreement was entered into and the terms concluded upon, no one was present; at the time the deed was signed no other person was present but co-defendant and this defendant's wife; and the reason no one else was present was, because plaintiff objected to have any one else.

To interrogatory number (15) he says: That the said deeds were not signed on the day they bear date, but on the day after, to wit, June 1st, 1847; that they were written on the day of their date at the office of co-defendant, and this defendant was present a part of the time said deeds were being written, but how long this defendant does not recollect; he believes a very short time; and does not know that any other person was present.

To interrogatory number (16) he says: The deed of 31st May, 1847, was signed by the plaintiff at her own house, in a room over the drawing room, fronting on Market street, about ½ past seven o'clock in the evening; this defendant does not know by what means his co-defendant gained admission into the house; that he did not go there to procure any agreement to be made between this defendant and plaintiff, but believes he went there to carry the said deeds to be executed; that he went there on Monday morning, 31st May, again on Monday evening, and again on Tuesday evening, and again on the 21st June. This defendant does not know, of his own knowledge, that co-defendant went there at any other time; but he is informed by plaintiff that he went there a few days previous to the 21st June, 1847.

To interrogatory number (17) he saith: That the plaintiff was not sick, nor in bed, nor did she complain of being sick, nor did she appear grieved or distressed. This defendant further saith, that, as soon as co-defendant came in, plaintiff called to him to come up stairs; that it was more private; that some one might come in; as soon as this and his co-defendant was in the room, she asked co-defendant if he had brought the deeds; he replied he had. Co-defendant then asked the plaintiff if she had seen Mr. Baker and Mr. Dickinson. She said she had not; that she did not wish to consult any one. Co-defendant then said, it was a large estate, and what Mr. Potter was giving was not the worth of it; she said she knew the value of the estate, and that Dr. Everett had offered her $1,200 a year, and a carriage and horses; that she had as much as she wanted, and she wanted Marion, her grand-daughter, this defendant's wife, to have the balance; that she was glad that she had an opportunity of doing something for her. Co-defendant then read the deeds to her; after he had finished reading the deeds, co-defendant observed, as there had been an interruption in reading the deeds he would read them over again; which this defendant likewise requested. The deeds were then read by co-defendant, and plaintiff expressed her satisfaction with them. This defendant then said to plaintiff, you have heard the deed read, if you wish to sign it you can do so. She replied, if I was not perfectly willing you may be sure I would not. After the plaintiff had signed the deed, she remarked to this defendant, now you will be able to keep the house, and buy the planta-

tion and negroes, for the estate owes you a large amount; the most of the heirs owe you, and you will not have my interest to pay for; besides, you will make something out of the management of the estate. Co-defendant said to her, she would still have the management of the estate. The plaintiff replied, she had relinquished her right to administer upon the estate to this defendant. Co-defendant then said, it was necessary to have it in writing, if she wished to relinquish her right to this defendant. She then asked co-defendant to write the relinquishment, and she would sign it; which he did, and she signed it. Plaintiff then said to co-defendant, "don't let Samuel give up the dower to the others, for it is worth $1,000 a year; get all you can for Marion, and I will pay you for your trouble." Co-defendant said, he thought this defendant ought to pay the fee, as it was not much; and he said he would pay it. This is the conversation that passed on that occasion to the best of his recollection.

To interrogatory number (18) he says: That on board the steamboat on Sunday morning, the 30th May, on the passage down, he told co-defendant the plaintiff had proposed to sell her interest in the estate to him for the benefit of himself and her grand-daughter, and he was much surprised at it; that she had said she intended to live the balance of her life with her grand-daughter, and wanted her to have the benefit of it; and this is all this defendant remembers upon the subject of the conveyance at that time. On Monday morning this defendant had another interview with co-defendant, when this defendant told him plaintiff had proposed to sell her interest in the estate to him for $1000 in cash, her board and servant, and six hundred dollars a-year, and she requested co-defendant to come and see her. This is all this defendant recollects having occurred on that occasion; there may have been other conversations, which he cannot recollect, and cannot set forth.

To interrogatory number (19) he saith: That no notes, letters, or writings passed between them on the subject of Samuel Potter's, deceased, intestate, or on the subject of said conveyance, or any subject*ed* connected therewith at any time.

To interrogatory number (20) he saith: That he did not tell the plaintiff she was bound by said deed, and that the same could not be cancelled.

To interrogatory number (21) he says: That at the time of the death of his father, and for many years before, he had the management of Point Peter plantation and Love Grove, and the hands belonging to the same, but that he had the management of no other part of his property.

To interrogatory number (22) he says: He was not fully and accurately informed of his father's estate or of its value; he knew he had a valuable estate; that he was possessed of a large number of slaves and plantations, and houses and lots in the town of Wilmington and Smithville, a part of two saw-mills, and lands in Brunswick, but of the value of them he had no accurate knowledge.

And the defendant further answering to interrogatory number (23) saith: That his intestate did die seized of the land and real estate men-

tioned in the schedule X; that he does not know, of his own knowledge, its real value, but the estimated value is as follows, viz:

1st. One-third of the Gaston steam saw-mill and stock on hand, including the partnership accounts, has been sold by the heirs of Sam'l Potter, deceased, (in which sale plaintiff joined,) at $15,000, of which sum $4,000 was personal property, leaving the balance of $11,000 as real estate; [of] the yearly rent of the mill this defendant is not informed; since the sale the purchase money is bearing interest; the said sale was made on a credit of 1, 2, 3, 4, and 5 years.

2d. One-fourth of a steam saw-mill in Georgetown, South Carolina; this defendant is not informed as to its value, but it cost $3,500, and since its erection has yielded no profit, but has been attended with an expense.

3d. A lot and improvements in the town of Wilmington, situate on Market street, valued at $7,500, which yields a nett annual rent of $550; a lot and improvements in said town, opposite the methodist church, valued at $2,000, which yields a nett yearly rent of $150; a lot and improvements in said town, on the corner of Surry and Castle streets, valued at $1,000, which yields a nett yearly rent of $75; a tract of land known as Point Peter plantation, to which is attached the other tracts mentioned in said schedule, known as Caintuck and Love Grove, valued at $14,000, which would rent for very little, in consequence of the character of the lands and the large number of hands required to cultivate it; a lot and improvements in Smithville, on Moore and Potts street, of the value of $800 dollars, yielding a yearly rent of $75; a lot and improvements in same town, on Moore and Dry streets, worth $1,000, yielding a yearly rent of $70; a lot and improvements in said town, adjoining the southeastern line of Bay street, and butting thereon; and a lot in said town opposite to lots no. 20 and 21, whereon is a range of buildings, together of the value of 1,000, yielding a yearly rent of $150; a tract of land in Brunswick county, known as the Howel Place, worth $300, yielding a yearly rent of $1; another tract of land in said county, on the east side of Lockwood's Folly, adjoining the lands of S. Fink and William Gauze, containing 300 acres, of the value of $400, having no improvements, and yielding no rent; another tract of land in Brunswick county, on Bachelor's creek, containing 300 acres, has no improvements, and yielding no rent, with the other tracts mentioned in the said schedule, are all comprehended under the name of Pamplico, and the value of the same is $600.

To interrog. number (24) he says: That he admits the intestate died possessed of a large and valuable personal property. A list of all the negroes, stocks, notes, and other evidences of debt, and household and kitchen furniture, is contained in schedule marked A, hereunto annexed.

To interrogatory number (25) he says: That the intestate in his lifetime had made loans or advancements to his children, and the same are designated in said schedule A.

To interrogatory number (26) he says: That the plaintiff was enti-

tled to one-sixth part of said personal property, and to a year's allowance, and the value of the same was $1000.

To interrogatory number (27) he says: That he did not, on the 31st May, 1847, know the amount of the bank or railroad stock, or the prices, number of the slaves, or the amount of the debts due his intestate, but has discovered the exact amount of the same since; that the number of the slaves is larger than the defendant then supposed to be by 10 or 15, and the value of the same is about three or four thousand dollars; that the amount of the debts due the estate is not larger than he estimated on the 31st May, 1847, and that the aggregate value of the estate is not larger that he then supposed it was, or so large; and schedule hereunto annexed, marked A, contains a list of all the personal property of the intestate he then knew of, or has since discovered.

To interrogatory number (28) he says: That he denies having made any presents to his co-defendant before or since 31st May, 1847, of any kind whatever, but admits that he loaned him one thousand dollars, for which he has no other security than the bond of his co-defendant; that he agreed to loan him the said sum of one thousand dollars in the presence of plaintiff, on the 21st of June, 1847.

To interrogatory number (29) he says: That he is informed and believes that plaintiff owned no other proper than what she conveyed by said deed to this defendant.

To interrogatory number (30) he says: That he and co-defendant did inform plaintiff of the value of the estate she conveyed by said deed.

To interrogatory number (31) he says: That he and co-defendant did express their opinion to plaintiff of the value of intestate's estate; co-defendant stated to plaintiff, before she signed said deed, that he thought her interest in the personal property was worth $8000 or more, and the real estate was fifty or sixty thousand dollars, and that the yearly value of her interest in the estate was worth $1200; this defendant had formed the opinion that the estate was worth about $120,000.

[To] interrogatory number (32) he says: That the crop which was sowed by intestate during his life, and was in the ground at the time of his death, has not all been sold; that the amount sold is $2,583$\frac{86}{100}$, and that one-third of that sum belongs to this defendant, who was a partner in the rice planting; that the amount of sales of the portion of the crop sold has been lost or mislaid; that the said sale was made in the city of New York; that this defendant had not time to procure a copy of the said sales, and the amount above stated was furnished this defendant by his factor in Wilmington; that the balance of the crop remaining unsold is about five thousand bushels, $\frac{1}{3}$ of which belongs to this defendant; that the expenses, for that year, of the plantation, for which the crop is liable, are $2,288$\frac{16}{100}$.

To interrogatory numbered (33) this defendant says: That a settlement of the copartnership of P. K. Dickinson & Company has been made; that the heirs and distributees of the deceased sold their entire interest to P. K. Dickinson, the surviving partner, including the part-

nership account for $15,000; that plaintiff was a party to said sale; a decree of the court of equity was made; that said sale was upon a credit of one, two, three, four, and five years; that the purchaser was required to give bond and approved security for the purchase money to the clerk and master of said court; that no money or notes have come into the hands of this defendant, as administrator of said estate or otherwise.

To interrogatory number (34) this defendant says: He had no knowledge of the plaintiff's having borrowed money from his wife until some time afterwards, when she informed this defendant that plaintiff had borrowed thirty dollars from her, but that she returned the same when she paid her the first quarter's annuity.

To interrogatory number (35) this defendant says: That there is in the county of Brunswick a quantity of land to which the intestate laid claim, but his title to the same, this defendant is informed, is not good; that the most of it is of little or no value, and yields no rent. There is no other real estate of which the intestate died seized, of which this defendant is informed; and this defendant denies all unlawful combination and confederacy in the said bill charged; without that, &c.; and prays to be hence dismissed, with his reasonable costs in that behalf most wrongfully sustained.

J. H. BRYAN,
Solicitor for defendants.

STATE OF NORTH CAROLINA,
Wake county.

Samuel R. Potter, the defendant, maketh oath that the matters and things set forth in this his answer as of his own knowledge are true; those not of his own knowledge he believes to be true.

SAML. R. POTTER.

Sworn before me this 21st day of June, 1848.

THOMAS RUFFIN,
Chief justice of the supreme court of North Carolina.

Schedule A.

A list of the personal property belonging to the estate of Samuel Potter:

Negroes at Point Peter and Love Grove plantations:

Joe	Austin	Frank	Quane
Cæser	Reddick	Bill Usha	Jim
Shade	Bill Jury	Ned	Gilbert
Robt. Beasley	Ellick	Little Bob	Dick
James	Cudgoe	Silas	Peter
John	Joe	Sandy	Josh
Charles	Fortune	Austin	Mary

Peggy	Maria	Priscilla	Betty Hatch
Lydia	Munetta	Polly Moore	Little Polly
Phebe	Molly	Nancy	Old Peggy
Betty Moore	Ellen, a child	May, a child	Henry, a child
Austin, a child	Torry, a child	Laura, a child	Eliza, a child
Charles, a child	Fred, a child	B. Hatche's child	Lewis, a child
B. Moore's child	Joe, a child	Nancy's child	Chloe
Peter	Old Dios	Old Polly	Andrew
Thomas	Matilda	Emily	Boston, a child.
Mary Ann	Emanuel	Hilliard, a child	

These negroes were valued, by the best judges, at $22,100, and sold by the heirs for the same.

A.

The following negroes were placed in possession of S. B. Everett for the use of intestate's daughter, and were in his possession at the death of the intestate: Sarah, Cuffy, Minerva, Sylvia. At the time they were placed in the possession of S. B. Everett by the said intestate, the supposed value of the same is $1,000.

The following negro slaves, to wit, Laura and Phebe, were placed by the intestate in the possession of John P. Brown, the husband of intestate's daughter Eliza, and were in his possession at intestate's death. The supposed value is $600.

The following negro slaves, to wit, Elsey, Isham, Abram, and Annette, were placed in the possession of Nicholas Tolly, the husband of intestate's daughter Amy, and were in his possession at the time of the intestate's death. Supposed value is $1,000.

The following negroes, belonging to intestate's estate, are in the possession of this defendant, as administrator: Mary, Peter, Phillis, Sam, Solomon, David, Hager, Old Hager, Dan, Cumbo, Anarchy, Robert, Pompey, William, Bob, Jupiter. Supposed value is $7,000.

Stock and working utensils on hand: 25 head of cattle; ⅔ of 2 flats; ⅔ of working tools for 40 hands, consisting of hoes and spades, chiefly; a lot lumber; bricks and lime; ⅔ of 2 carts and one wagon; 8 hoes, 3 horses, and 3 mules. Value, $500—five hundred dollars.

A.

43 shares in Bank Cape Fear stock
10 ditto Bank of State do.
140 ditto W. & R. R. Co., or thereabouts

Household furniture—parlor

4 divans and sofa to match

12 chairs	2 centre tables	2 large looking glasses
1 clock	2 solar lamps	5 candelabras
4 curtains	1 carpet	2 sets shovel and tongs
2 hearth rugs		

Dining room.

2 solar lamps	1 sofa	1 side board
1 centre table	1 looking glass	1 pr. shovel and tongs
1 blue dining set	1 gilt tea set	1 cobweb brush
2 carpets	stair carpet	35 steel bands
2 mattrasses	1 entry carpet	4 chamber carpets
2 beds, bolster and pillows		2 French bedsteads
4 bureaus with dressing glasses		2 foot basons
4 marble top wash stands		1 bedstead and bed
4 chamber china sets		1 painted stand
1 wash stand	5 pair andirons	4 pr. shovel and tongs
1 ironing table	4 fenders	

Furniture at Smithville—parlor.

1 carpet, matting and rug		6 blinds
1 side-board	2 looking glasses	1 centre table
1 sofa	12 chairs	1 hair seat rocking chair
2 end tables	2 candle shades	1 astral lamp and matt
2 spittoons	2 mantel ornaments	1 chimney board

andirons, shovels, tongs, bellows, and fenders.

Dining room.

1 looking glass	4 blinds	1 clock
1 barometer	1 side-board	1 book case
1 table	1 desk	1 candle stand
1 candle shade	6 chairs	1 chimney board

2 candle sticks, snuffers and tray
andirons, shovels, tongs, fenders and bellows

Bed room.

1 carpet	2 blinds	
1 bedstead, bed, bolster, pillows and mattrass		
1 wardrobe, bureau		1 looking glass
2 chairs, stool chair		breakfast table
2 mantle ornaments		1 chimney board

1st bed room up stairs.

1 bedstead, mattrass and bolster	1 pillow

1 bureau, 1 chair, wash stand and chimney board

2d bed room.

1 carpet	2 bedsteads	2 beds
2 mattrasses	4 pillows	1 bureau
1 washstand	2 basins and pitchers	1 table
1 easy chair	3 chairs	1 map

1 looking glass, andirons, shovels, tongs

3d bed room.

1 bedstead, bed, mattrass, bolster and two pillows

1 wash stand, basin and pitcher, two chairs
2 pictures

Bedding.

3 quilts	3 white counterpanes	1 spread
15 sheets	18 pillow cases	5 bolster cases
5 bureau covers	5 blankets	1 comfortable
31 towels	12 table cloths	12 table napkins
1 set of bed curtains		4 dimity window curtains

A.

1 white (broken) dinner set and remains of a blue set
1 white and gilt tea set
1 broken tea set
1 glass pitcher
1 lustre pitcher
1 bird globe
2 sets castors
2 large white cake plates
3 glass dishes
12 cup plates
3 decanters
12 champaign glasses
7 tumblers
5 wine glasses
2 large dishes
1 tureen
2 fruit dishes
1 gravy bowl
5 tin covers
11 large ivory handle knives and forks
6 small ditto
carving knife, fork and steel
stair carpet
12 rods
house steps
1 toilet bucket
1 safe
1 set Britannia ware
kitchen furniture

All the above household and kitchen furniture was sold by defendant as administrator, for the sum of $1,518 $\frac{20}{100}$.

A.

A list of the notes belonging to intestate, and found in his possession at his death:

2 notes on A. V. B. Hewlett for $1,000 each; one on Richard

Langdon for $100; one on Dorsher for $100; one on Robbins for $112 50; one on Dugeld McMillan for $112 50; one on E. A. Cushing [for] $75; one on Richard Taylor for $36 23; one on Thomas H. Wright for $400; one on Phebe Shaw for $75; one on T. G. Bowman for $470; one on F. Augustine $475; one note on S. B. Everett, advanced by intestate, $2,700; one note on John P. Brown, advanced by intestate, $5,060; one note on Nicholas Tolly, advanced by intestate, $2,000; H. R. Savage's note for $350; T. P. Brown's note for $30; Alexander McRay's note $175; G. W. Davis's note $110; an advancement made by intestate to John P. Brown, husband of Eliza, $2000, in the steamboat Clarendon.

Balance of crop that was in the hands of the factor of the intestate's for the year 1846, $3,459 96.

Amount of cash on hand at intestate's death, $120; cash received after intestate's death for house sold by him, $3,000.

The whole indebtedness of the estate is about $20,000.

Schedule B.

STATE OF NORTH CAROLINA,
New Hanover county.

Know all men by these presents, that I, Elizabeth E. Potter, relict of Samuel Potter, late of said county, deceased, for and in consideration of the sum of one thousand dollars, to me in hand paid by Samuel R. Potter, of the same State and county, at or before the sealing and delivering of these presents, the receipt whereof is hereby acknowledged, and for the further consideration of a deed of covenant from the said Samuel R. Potter, bearing even date with these presents, by which said deed the said Samuel R. Potter covenants and agrees to pay unto me the sum of six hundred dollars every year during my natural life, in equal quarterly instalments, as by reference to said deed of covenant will more fully appear at large; hath given, granted, bargained, sold, aliened, conveyed, and confirmed, and by these presents do give, grant, bargain, sell, alien, and convey and confirm, unto the said Samuel R. Potter, his heirs, executors, administrators, and assigns, all and singular my right, title, interest, and estate, both at law and in equity, which I, the said Elizabeth, have in and to the estate both real and personal of my late husband, Samuel Potter, deceased; the said interest consisting of valuable real estate in the town of Wilmington, a plantation known as Point Peter, opposite to the town of Wilmington; a plantation known as Love Grove, near the said town; one-third part of the Gaston steam saw-mill, with lumber, timber, &c.; houses and lots in the town of Smithville, Brunswick county; one-fourth part of a steam mill in Georgetown, South Carolina; that is to say, my right of dower, or thirds, in and to the said real estate, and my distributive share or one-sixth part of all the personal estate of and belonging to the estate of said deceased husband, Samuel Potter, consisting of about eighty negro slaves, household and kitchen furniture, debts due the estate, bank stock, and other personal property; also my right of dower

in and to all the lands situate, lying, and being in the county of Brunswick, and State aforesaid, of which my late husband, Samuel Potter, died seized and possessed; also all and singular my right, title, interest, and estate, both at law and in equity, which I have both to the real and personal estate of my said deceased husband, as his widow and one of his distributees, wheresoever the same may be, or of whatsoever kind or nature; to have and to hold all and singular the said right, title, interest, and estate, in and to the said property, both real and personal, to him, the said Samuel R. Potter, his heirs, executors, and administrators. And I, the said Elizabeth E. Potter, for the better securing the title of the said property, do hereby covenant, for myself, my executors, and administrators, to and with the said Samuel R. Potter, his executors, and administrators, and assigns, the same against the lawful claim or demand of any and all manner of persons whomsoever, to warrant and forever defend.

In testimony whereof I have hereunto set my hand and seal, this 31st day of May, in the year of our Lord one thousand eight hundred and forty-seven.

Signed, ELIZABETH E. POTTER. [SEAL.]

Signed, sealed, and delivered in the presence of—the word "dollars" interlined before signing—MAUGER LONDON.

Filed July 3d, 1848.

And on the said third day of July, in the year of our Lord one thousand eight hundred and forty-eight, the said defendant, Mauger London, files his answer to the said bill of complaint in the words following, that is to say:

Mauger London's answer.

The separate answer of Mauger London, one of the defendants to the bill of complaint of Elizabeth E. Potter, of Philadelphia, and a citizen of Pennsylvania.

This defendant, now and at all times hereafter, saving and reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiencies in the complainant's said bill contained, for answer thereunto, or into so much and such parts thereof as this defendant is advised is material for him to make answer unto, he answers and says: He admits that plaintiff in said bill of complaint is the widow of the late Samuel Potter, and that he died at the time and place charged in said bill intestate, and that he was seized at the time of his death of large and valuable estates, both real and personal, and that he left him surviving the plaintiff, his widow, and the other persons named in said bill as his heirs at law and next of kin, and that the plaintiff as his widow was entitled to one-third in value of all the real estate of said Samuel Potter for life, and one-sixth part of the personal estate; that this defendant is informed and believes, that the late Samuel Potter did make advancements to some of his children, but the extent or value of said advancements this defendant is not informed, and does

not know. This defendant further answering admits that the plaintiff in said bill was entitled, as the widow of the said Samuel Potter, to administer upon the estate of her said husband, and had the right to nominate some other suitable person in her stead, and that she was entitled to a year's allowance for her support during the term of one year; and that the value of the same is one thousand dollars, as charged in complainant's said bill. This defendant further answering denies that he is aware of any agreement on the *on the* part of the plaintiff to assign her right to administer upon the estate of the said Saml. Potter on the 29th day of May, 1847, or that this defendant did on that day, or at any other time, solicit, urge, or employ any manner of persuasion, artifice, or contrivance, to induce the said plaintiff to assign her right to administer upon the estate of the said Saml. Potter; but, on the contrary, avers that the plaintiff of her own free will and accord, proposed to assign her right to administer to co-defendant on the 1st day of June, 1847, assigning, as a reason therefor, that she did not wish the trouble of managing said estate; that she had had the management of two estates in Philadelphia, and that they were very troublesome. This defendant further answering admits that the plaintiff is not the mother of the children of the late Saml. Potter, and believes it is true, as charged in plaintiff's bill, that her children resided in the State of Pennsylvania at the time of the death of the late Saml. Potter, her late husband. This defendant further answering admits that the plaintiff is advanced in years, as charged in her said bill; and would suppose that she is about sixty years of age; but whether plaintiff is wholly without experience in the management of property this defendant cannot admit or deny; but does aver that plaintiff told him, or mentioned in his presence, that she had managed two estates, one of which was the estate of her former husband, a Mr. Eyre, of Philadelphia, in the State of Pennsylvania. This defendant further answering says, he was with the late Saml. Potter during his last illness, and frequently saw plaintiff, and that during that time and after his death plaintiff never did exhibit any grief for her husband's illness or his death; and this defendant has been informed, and believes, that she was not and is not distressed at the death of her husband, the late Saml. Potter.

And this defendant further answering denies that he had any conversation with co-defendant on the subject of the administration of the estate of Saml. Potter, deceased, before the burial of the said Saml. Potter, or that he either entered into any agreement, or had any understanding with co-defendant at any time concerning the same; and further denies that he had any conversation with plaintiff upon the subject of her husband's estate, or the administration upon the same, or had or heard any conversation between plaintiff and any other person, before Monday, the 31st day of May, 1847; and further denies that he ever at any time represented to the plaintiff that it would be any sort of security to the plaintiff's rights to assign her right to administer, or that the said Saml. Potter had intended to appoint co-defendant executor if he had made a will; but on the contrary avers that plaintiff, on

the 1st day of June, 1847, at the time she executed the deed, bearing date 31st May, 1847, to co-defendant, said she believed that her late husband, Saml. Potter, would have liked his son, the co-defendant, to have had the management of the estate, and if he had made a will would have appointed him executor; to which this defendant replied, he thought it very probable. This defendant further answering denies that co-defendant in his presence ever did make any professions of affectionate respect for plaintiff, or ever impute any selfishness to others, in the presence of plaintiff.

This defendant further answering denies that plaintiff relinquished her right to administer upon the importunity, advice, or request of this defendant. This defendant further answering, denies that plaintiff signed the said relinquishment of her right to administer upon her husband's estate on the day after her husband's death, as charged in her said bill, but says she signed the same on Tuesday, the 1st June. This defendant further answering admits that her husband, Sam'l Potter, died on Saturday morning, before day, between the hours of 4 and 5 o'clock, a. m., the 29th May, 1847, and that his remains were taken to Smithville on Sunday, 30th May; but denies that, so far as this defendant could observe, the plaintiff was at all sick, but on the contrary she appeared as well as this defendant ever saw her; and this defendant postively denies that he ever gave plaintiff any intimation of any kind that she had better not remain at Smithville. This defendant denies that plaintiff did not know that he and co-defendant were on the boat until it had nearly reached Wilmington, as charged in plaintiff's bill, for plaintiff told this defendant she would return in the boat with co-defendant; and he is informed and believes that she has told others that she knew this defendant and co-defendant were on the boat all the time, and has so sworn on a former occasion. This defendant admits that plaintiff did not request his company, but that when the boat reached the wharf co-defendant asked this defendant to remain with plaintiff till he could procure a carriage for her to ride to her residence; and that standing on the wharf he offered his arm, which she took; and when co-defendant returned saying, he could not procure a carriage, plaintiff said she would as soon walk, and did walk with this defendant to her residence on Market street, a distance of over a third of a mile; that on the way down she talked upon indifferent subjects, and appeared as cheerful and composed as this defendant ever saw her; that on reaching her residence plaintiff asked this defendant if he would walk in, which this defendant declined to do; when plaintiff told this defendant he must call and see her the next morning, as she wanted to see him on some particular business. This defendant further answering positively denies that he got into the house of the plaintiff without her knowledge or against her consent; but on the contrary avers that he went there at the special request and solicitation of plaintiff, and never once went to her house after the death of the said Sam'l Potter but at the request of the said plaintiff; and this defendant is informed, and believes, that plaintiff told a person, who was in the house

at the time, that she had requested this defendant to come and see her, and prepare the deeds and papers which she so falsely alleges were fraudulent obtained. This defendant denies that he opened the subject of a sale of her interest in her husband's estate to plaintiff or any one else; or ever consulted, or advised, or requested, or in any way, directly or indirectly, induced her to make said sale; but, on the contrary, this defendant avers that the plaintiff commenced the conversation with this defendant about the sale of her interest in her husband's intestate, by stating to this defendant that she had proposed to convey her interest to co-defendant for $600 per annum during her life, a thousand dollars in ready money, and co-defendant was in addition to furnish her with a room, and board, and a servant, and that she intended to remain with co-defendant and her grand-daughter, co-defendant's wife, the remainder of her life, and asked this defendant to prepare the deeds necessary to carry this arrangement into effect, and that she, the plaintiff, would send for this defendant during the evening of that day; that accordingly, on the evening of the said day, to wit, 31st day of May, 1847, this defendant received a message from the plaintiff to call and see her; when he reached her residence, he found the plaintiff in the drawing-room, who commenced a conversation with this defendant about the conveyance of her interest in her husband's estate, and told this defendant that it was an object she had long had at heart; that the wife of co-defendant was her favorite grand-daughter, and that she was glad she had an opportunity of doing something for her, and asked this defendant if he had brought the deeds; this defendant replied he had, and asked plaintiff if she wished to see them; to which plaintiff replied she did not; that she was sorry to trouble this defendant so much, but would rather wait till to-morrow before she signed the deed, as she wished to see co-defendant upon some business of a private nature. This defendant positively avers that he *that he* then told plaintiff that she was about to do an important act; that she was about to convey away her interest in a valuable estate for which this defendant thought a very inadequate consideration; and this defendant then and there advised the plaintiff to consult Mr. Baker, (a gentleman of the bar, and a son-in-law of Sam'l Potter, deceased,) and Mr. Dickinson, the partner of the late Sam'l Potter; that they were gentlemen of high character, and the importance of the transaction required some reflection; the plaintiff then told this defendant that she was desirous of having the matter settled; that if she delayed her friends in Philadelphia would interfere and frustrate her object; that she thought this defendant was no doubt surprised that she should, so soon after her husband's death, be transacting business, but that she was aware of the necessity of acting at once; and requested this defendant to say nothing about it, as she, the plaintiff, did not wish it known, and that the world was very censorious and would say she was unfeeling.

And this defendant further answering denies that the deed bearing date 31st May, 1847, was signed on that day, but on the contrary avers

that it was signed on the next day, to wit, the 1st of June. This defendant further answering denies that the plaintiff was ignorant of her rights, or sick, or distressed; but, on the contrary, avers that he informed her expressly what her legal rights were; that he stated to her that her interest consisted of one-third in value of all the real estate during her life, and a child's part of the personal estate absolutely; and that this defendant believed her interest in the personal estate of her late husband was worth at least eight thousand dollars, and perhaps more; and that the real estate was worth, or estimated at between $50,000 and $60,000; that plaintiff then told this defendant that her husband had informed her that his estate was worth $130,000, and that she knew that $600 a year was not the value of her interest in the estate, for that she had been informed that it was worth more than $1,200, but that she wished the wife of co-defendant to have the benefit of it. This defendant further answering denies that *that* the plaintiff was ignorant of the contents of the deed by which she conveyed her interest in her husband's estate to co-defendant, bearing date 31st May, 1847, but on the contrary says, that the plaintiff, upon hearing the deed read, and the number of slaves mentioned in the same, 80 in number, remarked that her husband had informed her that there were over 100 slaves, and that when plaintiff was about to sign said deed, which she did on the 1st of June, she inquired of this defendant if the date of the same should not be altered; but this defendant replied, that it was not necessary, as the deed only had effect from its delivery; that the plaintiff appeared willing, and even anxious, to execute said deed; that after the same was executed, plaintiff offered to pay this defendant for writing the deeds, when defendant told plaintiff that he thought co-defendant should pay him, as the conveyance would greatly benefit co-defendant; that the fees would not amount to much, (twenty or twenty-five dollars;) that plaintiff then requested this defendant to obtain her year's allowance for her, and this defendant filed a petition for plaintiff against his co-defendant, at June term, 1847, of the court of pleas and quarter session, of New Hanover county, and the same was allotted to her by the commissioners appointed by the court, and that the value of the same is one thousand dollars.

This defendant further answering denies that he defrauded or surprised the plaintiff into signing the said deeds, or any deeds whatever, or any papers or agreements of any kind or nature whatever. This defendant further answering says, he does not of his own knowledge know what the yearly value of the real estate of Samuel Potter, deceased, is exactly, but is informed and believes that the same will not exceed fifteen hundred dollars, and denies that the same is $6,000, as charged in plaintiff's bill, or any thing like that sum; and is informed and believes that the yearly value of the dower or thirds of said estate does not exceed in amount five hundred dollars. This defendant further answering says, he does not of his own knowledge know the exact value of the personal estate of which the said Samuel Potter died possessed; but has been informed, and believes, that the same does not exceed in value fifty thousand dollars.

This defendant further answering denies that he has attempted in any way to avoid any odium that plaintiff or her counsel are disposed to attach to what they most falsely charge to be a fraudulent combination. This defendant positively denies that he has one cent of interest, or was or is to derive any benefit or advantage, either directly or indirectly, by, through, or under the said deeds, or any of them; that the deed bearing date 31st May, 1847, by which plaintiff conveyed her interest in her husband's estate, was drawn by this defendant; and also the deed by which co-defendant secured to plaintiff an annuity of $600 per annum, at the special instance and request of plaintiff, and that she offered to pay this defendant for drawing the same, but this defendant thought co-defendant ought to pay him; that the amount of said fees do not exceed twenty-five dollars. This defendant positively denies that he ever pretended that the plaintiff intended to make a gift to co-defendant for the purpose of escaping what plaintiff charges to be "odium attached" to what she most falsely charges as fraudulent combination. This defendant further answering says, that he believes that plaintiff has children in Philadelphia; but is informed and believes, that with the exception of two, Elizabeth Babcock and Joseph Eyre, the said children are wealthy or married to wealthy men; and this defendant is informed and believes, that Joseph Eyre, the son of plaintiff, is a designing man, and has, with a view of self aggrandisement, and regardless of his mother's happiness, so far operated upon her feelings, as to induce the prosecution of this suit; that the said Joseph Eyre, at the time the marriage between the late Samuel Potter and the plaintiff was about to take place, in Philadelphia, or some time afterwards, inquired into the value of said Samuel Potter's estate, and declared he expected some of these days to have the fingering of some of it. This defendant further answering denies most positively, that he concealed from the plaintiff the value of her interest in her husband's estate; or that he ever, in any way, endeavored to make her believe that it was of less value than it really was; or that co-defendant, in the presence of this defendant, ever did represent the estate as smaller than it really was; or ever declared that he wished plaintiff to execute said deeds, or convey said estate, for the purpose of adding to her comfort or property, or for any purpose whatever. On the contrary, this defendant again avers, that she knew the value of her interest in said estate; that she in fact over estimated the value thereof; and this defendant, before she signed the deed, and in the presence of co-defendant, informed plaintiff of her legal rights, and gave his opinion of the value of the same, as stated in the foregoing part of this his answer, and acted in good faith in all he said and did. This defendant further answering admits that the transaction was secret; that it was done about eight o'clock in the evening; that it was dark; that no person was present at the transaction but plaintiff, co-defendant's wife, the grand-daughter of plaintiff, co-defendant, and this defendant; that it took place in an upper room in the house of plaintiff; but this defendant says, and expressly avers, that the secrecy attached to the transaction was the suggestion of the plain-

tiff; that she exhibited a great desire to keep the transaction secret; that when this defendant got into the passage of the house she called him up stairs, and told him the reason she had for so doing was that she feared some person might come in and see what was going on, and that people would then say she was "unfeeling;" that co-defendant proposed to call another witness to the transaction, but plaintiff objected to having any one else, unless, in the opinion of this defendant, another witness was necessary.

This defendant further answering denies that the plaintiff believed she was bound to assign her right to administer to co-defendant, or any other person; but, on the contrary, says that he informed plaintiff that she had the right to administer, and the plaintiff, of her own free will and accord, said she would assign her right to co-defendant; and this defendant positively denies that he informed the plaintiff that she was bound to assign her right to administer to co-defendant, or any other person, or that co-defendant so informed plaintiff in his presence. This defendant further answering denies that letters of administration upon the estate of Samuel Potter, deceased, were granted by the county court of Brunswick, but says that the same were granted by the court of pleas and quarter sessions of New Hanover county, at the court which began its session on the second Monday in June, 1847. This defendant further answering positively denies that he ever did propose to co-defendant to execute the deed by which an annuity was secured to Mrs. Elizabeth Babcock, the daughter of complainant, at his own suggestion, or upon the suggestion of any one but the plaintiff, and at her special request, and says the circumstances under which the said paper was executed, and proposed to be executed, were as follows, to wit: Some time about the middle of June, 1847, plaintiff sent a messenger to this defendant, requesting him to call and see her; that this defendant went to the residence of the plaintiff and found her alone; that plaintiff commenced a conversation with this defendant by stating that she feared she had been in too great haste in executing the deed to co-defendant; that she had received a great many letters from Philadelphia; and that her friends there were very much dissatisfied at what she had done; and that particularly they had reproached her for not making some provision for her daughter, Mrs. Elizabeth Babcock; that she would be much obliged to this defendant if he would suggest some mode by which she could calm the excited feelings of those of her friends in Philadelphia who were opposed to what she had done; this defendant then told plaintiff that he had no doubt but that Mr. Potter, co-defendant, would give her up the deeds if she desired him to do so; when plaintiff expressly told this defendant that she did not wish him to do that, but that her object was simply to make some provision for Mrs. Babcock, that her Philadelphia friends might have no cause of complaint against her, and asked defendant to request Mr. Potter, co-defendant, to give Elizabeth Babcock, her daughter, something; that as long as she, the plaintiff, lived, she, the plaintiff, could provide for her out of the annuity which was secured to her by co-defendant's

deed, but her friends in Philadelphia had said she might die before her daughter, and in that event she (Mrs. Babcock) would be unprovided for; this defendant then asked the plaintiff how much she would be satisfied with, when plaintiff said one hundred and fifty dollars, and this defendant then told plaintiff he would see co-defendant about the matter; that he entertained no doubt but that co-defendant would consent to the arrangement; that plaintiff had acted with generosity to co-defendant; plaintiff then said she would be much obliged to this defendant if he would arrange the business in the way she proposed; and then this defendant left plaintiff.

This defendant further says: A day or two after this interview he met with co-defendant, and informed him what had taken place between plaintiff and this defendant; whereupon co-defendant said he had seen plaintiff, and that he had agreed upon the terms of an annuity, and that he was to pay Mrs. Babcock an annuity of one hundred and fifty dollars; and that plaintiff had requested him to ask this defendant to prepare a deed to that effect; that this defendant accordingly wrote the deed, bearing date the 21st June, 1847, by which co-defendant agreed to pay an annuity of one hundred and fifty dollars to Mrs. Babcock, and which is referred to in plaintiff's said bill of complaint; that on the said 21st of June this defendant received a message from plaintiff, requesting this defendant to call and see her, and to bring with him the "papers;" that, accordingly, on that day this defendant went to the house of plaintiff, and met her at the door of the drawing-room. Plaintiff appeared in good health and spirits; plaintiff asked this defendant if he had brought the deed? To which this defendant replied he had; that this defendant then read the deed to plaintiff in presence of co-defendant and co-defendant's wife; that no other person was present; that this defendant remarked to plaintiff, that he, in said deed, referred to a paper writing in which plaintiff expressed her entire satisfaction at all that had been done, and that this defendant had done so; that if any of her Philadelphia friends should again object to what she had done, this defendant would have it under her hand, in black and white, that she was willing and satisfied to and with the whole agreements; that the plaintiff said that she would cheerfully sign the paper writing, which this defendant then wrote and read to her; and that she, the plaintiff, thought her friends in Philadelphia ought not to complain now, that this provision for Mrs. Babcock ought to satisfy them. Co-defendant then said to plaintiff, if you are dissatisfied, I now offer you back the deed; and plaintiff remarked, "No, I do not want the deed; I am glad the arrangement has been made for Elizabeth, and think that every person would be satisfied;" that co-defendant then executed said deed and delivered it to plaintiff; that plaintiff then signed a receipt to co-defendant for one hundred and fifty dollars, which plaintiff had received on the first quarter's payment upon the annuity, and also signed the paper writing, which expressed her entire approbation of what had been done. That after the deed and papers were signed, co-defendant offered to pay plaintiff one thousand dollars, and take up the note he

had given plaintiff; plaintiff said she did not want the money till the following February. Co-defendant said, I do not wish to pay interest on the amount, and would prefer paying the cost. This defendant told co-defendant he would take the money, and pay the interest upon it till February; whereupon plaintiff said she wished this defendant would; this defendant said he would not take the money from plaintiff, but plaintiff might keep co-defendant's note, and this defendant would give his for a similar amount to co-defendant, payable on the first of February, and after a few days this defendant did give his bond to co-defendant for $1,000, and co-defendant lent that amount to this defendant; that transaction was not secret. That this defendant believes that there were a number of persons in the town of Wilmington who knew this defendant had borrowed the said sum of $1,000. This defendant further says, that on the said 21st June, after the deed, &c., was signed, plaintiff asked this defendant to get all he could for "Marion," co-defendant's wife, and that on her account she wished the estate she had conveyed was worth ten times as much as it was; that plaintiff appeared pleased at what had been done; and this defendant is informed and believes, that on the very day the said deed by which the annuity was secured to Mrs. Babcock, to wit, the 21st of June, the plaintiff informed a female in whom she had great confidence, and before whom she spoke unreservedly, that the plaintiff was perfectly satisfied at what she had done, and that this defendant had acted towards her in a very gentlemanly manner; and that she, the plaintiff, had requested this co-defendant to do what he had, to wit, write the deeds, &c. This defendant further answering, denies that plaintiff was ignorant of the contents of the paper which she signed, in which paper she expresses her entire approbation of what had been done relative to the conveyance of her interest in her husband's estate, and says he read the same to plaintiff, and that she approved of the same, and cheerfully and of her own free will, and without any compulsion or earnest solicitation on the part of this defendant, or any other person, signed the same.

This defendant further answering denies any and all manner of fraud and combination as charged in plaintiff's said bill, and denies that he told plaintiff, before she signed the paper above referred to, or any other paper of which this defendant has any knowledge, that she was irrevocably bound by the conveyance referred [to] in said bill, or that she was bound by any conveyance she had executed.

This defendant further answering says, he admits that he did tell plaintiff she was bound by the deed she had executed to co-defendant; but says that he told her so several days after 21st June, 1847, and that the circumstances under which he told her so were as follows: that plaintiff sent for this defendant, and he had an interview with her, (no other person being present;) that plaintiff told this defendant she had received more letters from Philadelphia; that her friends there were very much dissatisfied with what she had done, and that she was so distressed at what they had written her, she wanted to undo what she had done, and asked the defendant if he would prevail upon co-defendant to give

up the deed; and further asked if the deed was binding, for that her son Joseph Eyre had written her it was not; and that he had employed counsel in Philadelphia to have the same set aside, and that he had been advised by his counsel that the same could be annulled. This defendant replied, he was much surprised to hear plaintiff speak in that way; that Mr. Potter, co-defendant, had offered the deed to her on 21st of June, and that she had refused to accept; plaintiff replied, "yes, but he did it in such a way that she could not take it." This defendant told plaintiff he saw nothing peculiar in co-defendant's manner on that occasion; plaintiff said, but she thought "her friends in Philadelphia would have been satisfied after the provision for Elizabeth Babcock," but that they were not, and she wanted the deed back. This defendant then told plaintiff that, in the opinion of this defendant, she was bound by her deed to co-defendant.

This defendant, further answering to interrogatory (1), says: That the late Samuel Potter died intestate, in the town of Wilmington, North Carolina, on the 29th May, 1847.

To interrogatory number (2) he says: That his remains were removed to Smithville, on Sunday, the 30th; that this defendant, his co-defendant, plaintiff, and a number of citizens of the town of Wilmington, went with them.

To interrogatory number (3) this defendant says: That the plaintiff in said bill of complaint is the widow of intestate, and this defendant would suppose that she is about 60 years of age, but has never heard her age spoken of.

To interrogatory number (4) this defendant says: That the first mention he heard made of the assignment of the right to administer on the part of the plaintiff, [was] in her own house, on the 1st June, 1847, when she had signed the deed bearing date the 31st May, that she said she would sign her relinquishment; that she did so at her own instance, and further said she had agreed to do so; but when or where the defendant does not know; that co-defendant and his wife were the only persons present.

To interrogatory numbered (5) this defendant says: That he knows of but one writing to the effect that plaintiff had assigned her right to administer, and that a copy of the same is set forth, word for word, in another part of this defendant's answer.

To interrogatory numbered (6): This defendant denies any knowledge of any agreement to relinquish the administration of the estate, than what is set forth in the foregoing part of his answer.

To interrogatory numbered (7) this defendant says: That the relinquishment was signed on 1st June, the same evening the deed bearing date 31st May, 1847, was executed, and a few minutes after.

This defendant, further answering to interrogatory numbered (8), says: That plaintiff did leave Smithville on the same day she went there with the remains of her husband, and plaintiff told this defendant on board the boat, at the wharf at Smithville, before the plaintiff had left said boat, that she wished to return in the boat that day, and

that she had only come down at the solicitation of some of the family; and when plaintiff reached Wilmington, and while she was walking from the steamboat to her residence, told this defendant that the reason she was anxious to return was, that co-defendant's wife would be alone, and that one of the children of co-defendant's wife was sick.

This defendant, further answering to interrogatory numbered (9), says: That he did not urge plaintiff to go to Smithville, or urge her to return.

This defendant, further answering to interrogatory numbered (10), says: That plaintiff did not assign any reason for leaving Smithville so soon, until she returned to Wilmington; and the plaintiff told this defendant she had returned because her grand-daughter, co-defendant's wife, was alone, and that one of the children was sick.

This defendant, further answering to interrogatory numbered (11), says: That he went to Smithville on the day of the funeral of the late Samuel Potter; that he went there in company with a number of the citizens of the town of Wilmington; that the railroad company had offered one of their boats to carry the remains down in, and that any of the friends of the deceased who desired to go down were at liberty to do so; that this defendant was not invited by any one to go down, and that he went for no other purpose than as a mark of respect for the deceased.

This defendant, further answering to interrogatory numbered (12), says: He did write the deeds of conveyance and the covenants referred [to] in the bill of complaint of plaintiff, bearing date 31st May, 1847, and did also witness them; that he did also write the bond for $1,000; but whether this defendant witnessed the said bond, this defendant does not now remember.

This defendant, further answering to interrogatory numbered (13), says: That co-defendant, Samuel R. Potter, did not employ this defendant to make any agreements with the plaintiff, or to assist him in making any agreements with plaintiffs, or to advise him at any time; nor did co-defendant agree to pay this defendant for any services this defendant had rendered co-defendant, except that when plaintiff had requested this defendant to write the deeds referred to in plaintiff's bill, and under the circumstances as set forth in the foregoing part of this defendant's answer, plaintiff offered to pay this defendant for writing said deeds, but the exact sum was not fixed upon; that this defendant thought that twenty or twenty-five dollars would be a sum sufficient for that service; that co-defendant said he would pay this defendant his fees, but co-defendant has not paid this defendant for writing said deeds, or for any other instruments of writing; nor has co-defendant made any other promise to pay than what is set forth in this, this defendant's, answer.

This defendant, further answering to interrogatory numbered (14), says: That the only person present at the signing of the said deeds referred [to] in plaintiff's bill, were this defendant, co-defendant, co-defendant's wife, and plaintiff; and no one else was present, for the

reason that plaintiff desired no one else should be; that she wished the matter kept secret; she so expressly stated to this defendant; she also stated that her reason for keeping this transaction secret was, that she feared if it was known she was transacting business so soon after her husband's death, the world would say she was unfeeling; this defendant denies that he was present at any negotiations between co-defendant and plaintiff, and only acted as a lawyer in drawing the deeds and papers at the request of the plaintiff.

This defendant, further answering to interrogatory numbered (15), says: That the said deeds referred to in plaintiff's bill, and bearing date 31 May, 1847, were not signed on the day they bear date, but were signed on the day after, to wit, the 1st day of June, 1847; that the said deeds were written on the day they bear date, to wit, 31 May, 1847, at the office of this defendant; that, during a short part of the time this defendant was writing the said deeds, co-defendant was in his office, and present at the writing, but how long co-defendant was so present this defendant does not now remember; and that, during said time this defendant was writing said deeds, David Reed, esq., a gentleman of the bar, came into this defendant's office, and this defendant informed him what he was doing.

This defendant, further answering to interrogatory numbered (16), says: That the deed of conveyance bearing date 31 May, 1847, was signed by plaintiff in the house of plaintiff, or where plaintiff then resided; that the same was signed in an upper room in said house, in the story of the house first above the one occupied by the family as drawing-room, sitting-room, &c.; that the plaintiff requested this defendant to walk up stairs into that room, for fear some persons might come into the drawing-room, and that the transaction might then be known by others; that this defendant gained admission into the house by means of the back door; that means or way of admission was the one pointed out to this defendant by the servant of the plaintiff, who stated to this defendant that plaintiff desired this defendant to come in the back way; and this defendant says, plaintiff asked this defendant, as soon as he met her in the passage of the story of the house on which the room in which the deed was signed was situated, if he (this defendant) had come in the back way; defendant replied he had, and the plaintiff said, that was right; the defendant further says, he did not go to the residence of plaintiff for the purpose of procuring any agreements to be made between plaintiff and co-defendant, but that he did take the deeds with him at the request of the plaintiff; that plaintiff asked him if he had brought the deeds, and that the object of that visit to plaintiff's residence was, that she might execute the said deed, if she was so disposed; and this defendant did believe, before he went there, that plaintiff would sign the said deed; that the time of the day at which this defendant went to plaintiff's residence on the said first June, 1847, was about half past seven o'clock, p. m., directly after tea; that this defendant went to plaintiff's house twice on Monday, 31

May, once on Tuesday, 1st June, once about the middle of June, and once several days thereafter, and never went there but at the solicitation of plaintiff.

This defendant, further answering to interrogatory numbered (17), says: That plaintiff was not sick, nor did she appear to be sick; nor was she distressed, or appear to be in trouble, but, on the contrary, she looked well, and appeared composed; on the evening she signed the said deed, before the plaintiff signed the said deed, she asked this defendant, just after she and this defendant entered the room where the same was signed, if he had brought the deeds; this defendant replied he had; asked plaintiff if she had seen Mr. Dickinson and Mr. Baker; plaintiff said she had not; this defendant then expressed his regret that she had not, as he supposed from what he had said on the previous evening she would have done so; plaintiff said she did not delay signing the deed to advise with any one, but that she wanted to see co-defendant on something of a private nature, and that she had seen co-defendant, and now wished to sign the deed; that in addition to the thousand dollars which co-defendant had agreed to give her, he had agreed to give her the amount of her year's allowance, and asked this defendant how much that would be; this defendant told her that would depend upon the commissioners, who would allot it to her; that in this community they were generally liberal in such matters; and this defendant thought that it would amount to eight hundred or a thousand dollars; plaintiff then asked this defendant for the deed, which this defendant exhibited to her, and proceeded to read as far as that clause which recited the number of slaves, (80 in number;) plaintiff remarked that the number was not correctly stated; for Mr. Potter (meaning her late husband) had told her there were over one hundred slaves; this defendant told plaintiff that it was not important to recite the number of slaves precisely, and then proceeded to finish reading the deed; the defendant then told plaintiff that he had prepared the deed at her request, but if she did not wish to sign it then, the defendant would wait till she was ready; that it appeared to him that there was no necessity for haste about it; that the estate was a valuable one; that her interest consisted of one third in value of all the real estate during her life, and a child's share in the personal property; that her share of the personal property was worth at least eight thousand dollars, and perhaps more; plaintiff said she knew the value of the estate; that Dr. Everett had offered her, or that he said she could get $1,200, and a carriage and horses for her interest; but that she preferred that her grand-daughter, co-defendant's wife, should have it for $600 a-year; that she expected to spend the rest of her life with co-defendant and his wife; that co-defendant had agreed to give her a room in his house, and furnish her with board and a servant, and that she could live happily with them, and be independent, without the trouble of managing her property; that co-defendant said, "Yes, you may always live with me; I will be pleased to have you to stay with Marion, (co-defendant's wife,) and you may select any one of my servants."

This defendant then remarked that, as there had been an interruption in reading the deed before, he would read it again, and did so; as soon as this defendant had read the deed a second time, plaintiff stepped to a small table in the room, took up the pen, and was in the act of signing the deed, when she asked this defendant if the date of the deed should not be altered from the 31st May (the day it bore date) to the 1st June, (the day she signed it;) this defendant told plaintiff it was not material, as the deed would only take effect from its delivery; plaintiff then signed the deed, and delivered it to the co-defendant; the deed which secures to plaintiff an annuity of $600 a year was read on the same evening, before the signing of the deed by plaintiff, and co-defendant signed the same, and delivered it to plaintiff; after the deeds were signed and delivered, plaintiff said to this defendant, "I am much obliged to you, and will pay you for your trouble;" this defendant remarked that the amount she or any one would have to pay would be small, but that Mr. Potter ought to pay for writing the deeds; plaintiff then asked this defendant if he would get the year's allowance for her; to which this defendant replied, "I will."

After the said deeds were signed plaintiff said, "Now, Samuel, you will have the management of the whole estate, and I am glad of it;" this defendant replied "No, the right to administer the estate is still in you;" plaintiff said. "No, I have given up my right to Samuel;" this defendant then said that, by the rules of the county court of New Hanover, the relinquishment by a widow of her right to administer must be in writing; plaintiff said, "You write it, and I will sign it," and this defendant wrote the relinquishment, which is on file in the office of the clerk of the court of pleas and quarter sessions of New Hanover county—a copy of which this defendant has obtained from said office, and here inserts the same, word for word:

STATE OF NORTH CAROLINA,
New Hanover county.

I hereby renounce my right to administer upon the estate of my deceased husband, Samuel Potter, and would greatly prefer that my son, Samuel R. Potter, should have the administration.

(Signed) ELIZABETH E. POTTER.
31st May, 1847.

This defendant says, that the foregoing conversation is all he ever had with plaintiff upon the subject of the administration, and that the said renunciation of the right to administer was signed by plaintiff on the said 1st June, though the same bears date the 31st May; and that the same was written at the request and in the presence of the plaintiff on the evening above stated, and at the time stated; this defendant believes there was more conversation had between plaintiff and co-defendant on the said occasion, but this defendant does not now remember anything more than what is here stated in this answer.

This defendant, further answering to interrogatory numbered (18), says: That the first mention that co-defendant made to him, upon the

subject of the plaintiff conveying her interest in her husband's estate, was on board the steamboat on the way to Smithville on Sunday, 30th May, 1847, when about half way between Wilmington and Smithville; that co-defendant said plaintiff had proposed to him to convey her interest in her husband's estate to him, but did not say upon what terms; this defendant expressed his great astonishment that plaintiff should be thinking or talking about such matters so soon after her husband's death; co-defendant replied, that she did not feel grieved at the death of her husband, and had been speaking of the estate frequently since his death; that he, co-defendant, was surprised that she should have offered to sell to him, but that he believed it was his wife (plaintiff's granddaughter) that she wished to benefit, for plaintiff had said to co-defendant, "I want to do what will be of most [benefit] to you and Marion, and I want you to buy the Point," (meaning Point Peter plantation;) this defendant does not now remember that he had any further conversation with co-defendant upon the subject of the conveyance at that time; on Monday morning, the 31st May, about 10 o'clock, co-defendant came to the office of this defendant, and said that plaintiff wished to see him; that she had agreed to convey to co-defendant her interest in the estate for $600 a year, and one thousand dollars ready money; and that was all that passed during that interview, to the best of this defendant's recollection.

This defendant further answering says, that on Monday afternoon co-defendant came to the office of this defendant, and asked him if he had written the deeds that plaintiff had requested this defendant to write. This defendant said he had not, but was just then about to write them, and remained in the office some short time while defendant was writing the deeds, and left before the same were finished; that during his stay there this defendant remarked to co-defendant that it was strange that the plaintiff should make this conveyance to him, and that she should not let her children in Philadelphia have a share of her interest in the estate; co-defendant replied, that he was surprised that plaintiff should have proposed such a thing to him, but he believed it was nothing but the affection she entertained for his wife and granddaughter; that she, (co-defendant's wife) was about the only person he knew with whom plaintiff could live on friendly terms; that she, co-defendant's wife, always gave up to her, and that he believed she loved co-defendant's wife better than any one in the world; that she never did live happily with her sons in Philadelphia, and that it was her intention to live with co-defendant and his wife during her life; this is all that passed between co-defendant and this defendant, to the best of this defendant's remembrance and belief.

This defendant, further answering to interrogatory numbered (19), denies that any notes or letters, or other writings, passed between defendant and co-defendant on the subject of the said conveyance, or any subject connected therewith, or any subject having any relation thereto, or upon any subject whatever, at any time before the 31st May, 1847, or on that day, or since.

This defendant, further answering to interrogatory numbered (20), admits he did tell plaintiff, after the 31st May, 1847, that she was bound by the deed she had executed to co-defendant, and that the same could not be annulled; but says that he positively denies having told her so till several days after the 21st June, 1847, after co-defendant had executed the deed to plaintiff bearing date the 21st June, 1847; and that he had said conversation with plaintiff at the time and under the circumstances more particularly set forth in the foregoing part of this defendant's answer.

This defendant, further answering to interrogatory numbered (21), says: That he believes that Samuel R. Potter, co-defendant, did, at the death of his father, have the management of his father's plantation, known as "Point Peter," and that he had the management of the same many years before, but does not know how long, or is he informed, or does he know, whether co-defendant had the management of any other part of his father's business.

This defendant, further answering to interrogatory numbered (22), says: He does not know what the extent of co-defendant's information about his father's estate was, and therefore cannot answer.

This defendant, further answering to interrogatory numbered (23), says: That he is informed and believes that Samuel Potter, deceased, died seized and possessed of *of* the real estate contained in schedule marked X in plaintiff's bill, but says he has no accurate knowledge of the value of the same; and in answer to the interrogatory gives his opinion, based solely, in most cases, upon his information derived from the opinion of others.

1st. $\frac{1}{3}$ Gaston steam-mill and stock on hand, including the partnership accounts, has been sold by the heirs of Samuel Potter (in which sale plaintiff joined) at $15,000, of which sum $4,000 was personal property, leaving the balance, $11,000, as real estate; this defendant does not know what the mill would rent for, but believes that, since the sale, the money is worth the lawful interest thereon; that the said sale was made on a credit of one, two, three, four, and five years.

2d. $\frac{1}{4}$ of a steam-mill in Georgetown, South Carolina; this defendant is not informed as to its value, but is informed and believes that the same has been attended with great expense and loss, and has never yielded any revenue.

3d. A lot and improvements in Wilmington, situate on Market street, with a four-story brick building thereon; this defendant says, in his opinion, is worth seven thousand dollars, and that the gross yearly rent thereof is $7,000, from which are to be deducted about $70 for taxes, and about $50 for insurance; a lot and improvements in Wilmington, opposite the Methodist church, in the opinion of this defendant is worth $2,000, and the yearly rent thereof is $200, from which are to be deducted about fifty dollars for taxes and insurance.

A lot and improvements in said town, situate on the corner of Sur ry and Castle streets, is worth about $1,000, and rents for $100 per

annum, from which about $25 are to be deducted for taxes and insurance.

A tract of land known as Point Peter plantation, to which is attached also the other tract mentioned in said schedule, known as "Cain Tuck," this defendant has heard variously estimated from $10,000 to $14,000, and the yearly rent at from $300 to $500; but this defendant has no opinion about the value, except that he believes $14,000 would be the extreme valuation, and $500 a year the extreme yearly rent.

A lot and improvements in Smithville, situate on Moore and Potts streets, this defendant believes is not worth more than eight hundred dollars, and would not rent for more than $75 per annum.

A lot and improvements in the same town, situate on Moore and Dry streets, and Nash street, adjoining lot No. 50, in the opinion of this defendant, is worth no more than $1,000, and the yearly rent not more than $100.

A lot and improvements in said town, joining the southeastern line of Bay street, and butting thereon 66, continuing to channel, $400; yielding a rent of $50.

A lot in said town, opposite to lots No. 21 and 21, whereon is a range of buildings 100 feet long, $700, yielding a yearly rent of $100.

A tract of land in Brunswick county, containing 285 acres, known as the Howe place, value unknown to this defendant.

Another tract of land in said county, on Lockwood's Folly river, on the east side thereof, joining the lands of Samuel Frink and William Gause, containing 320 acres; value unknown to this defendant.

Another tract of land on Bachelor's creek and the river, containing 300 acres, in Brunswick county aforesaid. This defendant is not informed of the value.

Another tract of land in said county on the southwest side of Lockwood's Folly river, containing 100 acres. This defendant is not informed of its value.

The undivided moiety, or half of another tract of land in said county, on the southwest side of the same river, containing 100 acres. This defendant is not informed of its value.

Another tract of land in Brunswick county, on the southwest side of Bachelor's creek, joining the lands of Mrs. Mary Hemmingway. This defendant is not informed of its value.

This defendant, further answering to interrogatory numbered (24), says: The intestate did die possessed of a large personal estate; that the same consisted chiefly of negroes; that the aggregate value of said estate, in the opinion of this defendant, is not exceeding fifty thousand dollars; that this defendant does not know the names of the negroes, or the articles of which said personal property consisted, and cannot therefore state them.

This defendant, further answering to interrogatory numbered (25), says: He is informed and believes that the intestate did make some advancements and loans to some of his children, but of what the same

consisted, or the value thereof, this defendant is not informed and does not know.

This defendant, further answering to interrogatory numbered (26), says: The plaintiff in said bill of complaint was entitled to one-sixth part of the personal estate of her late husband, and to a year's allowance, as charged in said bill; and that the value of the year's allowance is one thousand dollars.

This defendant, further answering to interrogatory numbered (27), says: He is not informed and does not know whether co-defendant has found out any property of his intestate since 31 May, 1847, whereof he was ignorant at that day.

This defendant, further answering to interrogatory numbered (28), denies positively that co-defendant, Samuel R. Potter, has made him any present of any kind or description whatsoever, at any time either before or since the death of Samuel Potter, deceased. This defendant further answering admits that co-defendant has loaned this defendant $1,000; that co-defendant has no other security for the same but the bond of this defendant, and that co-defendant loaned the said sum of $1,000 *dollars* on the day of June, 1847, and under the circumstances mentioned more particularly in the foregoing part of this defendant's answer.

This defendant, further answering to interrogatory numbered (29), says: He is not informed, and does not know, what other property plaintiff owned or had, besides what she conveyed by her deed, bearing date 31st May, 1847.

This defendant, further answering to interrogatory numbered (30), says: He expressly informed plaintiff of what her interest in the estate of her late husband consisted, and what its value was, before she conveyed the same to co-defendant.

This defendant, further answering to interrogatory numbered (31), says: He did express his opinion to plaintiff as to the value of her interest in her husband's estate.

This defendant further answering says, that the estimate he had formed of the value of plaintiff's interest in said estate was, that the dower in the same was worth between $500 and $600 a year; and that the personal property was worth about eight thousand dollars in all; and this defendant says, he told the plaintiff before she signed the deed aforesaid.

This defendant, further answering to interrogatory numbered (32), says: That he is informed, and believes, that the crop which was sowed by the intestate, and was in the ground at his death, was sold after his death, but for how much, or to whom, this defendant is not informed.

This defendant, further answering to interrogatory numbered (33), says: That a settlement of the partnership of P. K. Dickinson & Co. has been made, and that plaintiff was a party to that settlement; and that $15,000 was the sum for which the one-third (being the interest that intestate had in said mill) was sold upon a credit of one, two, three, four, and five years; and that as yet nothing has fallen to the estate of

the intestate from said settlement; that the said sale was made under a decree of the court of equity, of New Hanover county, and the clerk and master was required, by a decree of said court, to take bonds, with approved security, for the amount of said sale; that the said sale, by an agreement between the parties, included all the partnership accounts.

This defendant, further answering to interrogatory numbered (34), says: He is not informed, and does not know, whether the plaintiff was obliged to borrow money from the wife of co-defendant to pay for her mourning after her husband's death, but says he heard plaintiff say that co-defendant's wife had paid to plaintiff one hundred and fifty dollars for the first instalment upon the annuity which co-defendant had bound himself to pay, and that the plaintiff had given the wife of co-defendant a receipt for the same; that this defendant heard plaintiff say this on the 21st June, 1847, at the time co-defendant entered into the agreement to pay Mrs. Babcock $150 per annum.

This defendant, further answering to interrogatory numbered (35), says: He is not informed, and does not know, of any other real estate of which the intestate, Samuel Potter, died seized than that contained in schedule marked X, in plaintiff's said bill.

And this defendant denies all unlawful combination and confederacy as charged in plaintiff's said bill; without that, &c., and prays to be hence dismissed, with his reasonable costs in that behalf most wrongfully sustained.

J. H. BRYAN,
Sol. for deft.

STATE OF NORTH CAROLINA,
Wake county.

Mauger London, the defendant, maketh oath that the matters and things set forth in this his answer, as of his own knowledge, are true; those otherwise stated he believes to be true.

MAUGER LONDON.

Sworn before me, this 21st day of June, 1848.

THOMAS RUFFIN,
Chief justice of the supreme court of North Carolina.

And on the said third day of July, in the year of our Lord one thousand eight hundred and forty-eight, the said complainant, by her said solicitor, files her replication to the said answers of the said defendants, in words following:

Replication in chancery.

The replication of Elizabeth E. Potter, complainant, to the answers of Samuel R. Potter and Mauger London, defendants: This repliant,

saving, &c., for replication to said answers saith: That she will aver and prove her said bill to be true, certain, and sufficient in the law to be answered unto; and that the said answers of the said defendants are uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answers contained material or effectual in the law to be replied unto, confessed, *un*avoided, traversed, or denied, is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct; and humbly prays as in and by his said bill *he* hath already prayed.

WILL. H. HAYWOOD, Jr.,
Solr. for compt.

Orders.

And on the third day of November, in the year of our Lord one thousand eight hundred and forty-eight, the following order was made by the honorable district judge of North Carolina, to wit, at the rule day of said court, that is to say:

10th of October, 1848, upon the application of defendants' counsel, and upon cause shown, the time is extended to the second Monday of December, for taking depositions.

At chambers, the 3d day of November, 1848.

ELIZABETH E. POTTER
vs.
SAMUEL R. POTTER and MAUGER LONDON. } In equity.

Upon the application of counsel in this cause, I appointed James T. Miller, esq., a commissioner to take depositions; and afterwards I appointed Dugald MacMillan, a commissioner specially to take depositions in this cause, supposing of course that interrogatories had been filed; but now it appears that this preliminary had not been complied with, and that the two appointments are likely to produce collision and dissatisfaction. I hereby revoke them, and now appoint the said James T. Miller and Dugald McMillan, esquires, commissioners to take depositions in this cause.

H. POTTER,
Judge U. S. district [court,] North Carolina.

And at the circuit court aforesaid, held on the Monday next preceding the first Monday of December; present, the judges of the said court, it was ordered as follows, that is to say:

ELIZABETH E. POTTER
vs.
SAMUEL R. POTTER and MAUGER LONDON. } In equity—November term, 1848.

In this case it is ordered, by consent of parties, that the time for tak-

ing testimony be enlarged and extended to the first Monday of April next.

It also is ordered, on motion of Samuel R. Potter, defendant, upon the suggestion that his co-defendant London hath no interest in the matters in question in this cause, that he have leave to take the deposition of said London on his behalf, saving all just exceptions to the plaintiff.

And on the first Monday of April, 1849, upon the motion of defendants, the honorable district judge aforesaid, at the rules in April aforesaid, did again order that the time for taking depositions in this cause be extended to the first Monday of May, 1849.

And at the said circuit court, held the first Monday of June, 1849; present, the honorable district judge, the following order was made, to wit:

UNITED STATES OF AMERICA,
North Carolina district.

ELIZABETH E. POTTER
vs.
SAMUEL R. POTTER and MAUGER LONDON. } In equity—June term, 1849.

Present, the honorable Henry Potter, district judge of the United States, for the district of North Carolina.

Leave to both parties to file exhibits. The counsel for the plaintiff and for the defendants agree that publication shall pass on the first Monday of July next, being the rule day of this court.

The plaintiff appeals from the decision of the clerk, by which the deposition of Mauger London is allowed and passed.

No. 1.

Copy of exhibit filed by the complainant.

$1000.

On demand, I promise to pay to Mrs. Elizabeth E. Potter the sum of one thousand dollars, for value received.

Witness my hand and seal this 31st May, 1847.

SAM. R. POTTER. [SEAL.]

Witness—MAUGER LONDON.

No. 2.

Copy of exhibit filed by complainant.

STATE OF NORTH CAROLINA,
New Hanover county.

An indenture, made and entered into by and between Samuel R. Potter, of the State and county above written, of the first part, and

Elizabeth E. Potter, relict of the late Samuel Potter, deceased, of the same State and county, of the second part: Whereas the said Elizabeth hath, by deed bearing even date with these presents, conveyed to the said Samuel R. Potter all the right, title, interest, and estate, in and to the estate of her deceased husband, Samuel Potter, for the consideration in said deed mentioned and contained, as by reference to the same will more fully and at large appear; and whereas it is the desire and wish of the said Elizabeth, during her natural life, to reside and live with the family of the said Samuel R. Potter; now, therefore, this indenture witnesseth, that the said Samuel R. Potter, for and in consideration of the conveyance of the interest of the said Elizabeth in and to her said deceased husband's estate, and the further consideration of the sum of one dollar, to him in hand paid by the said Elizabeth at or before the sealing and delivery of these presents, doth hereby, for himself, his heirs, executors, and administrators, covenant and agree, to and with the said Elizabeth, to furnish her with a competent livelihood and maintenance at his own house, wheresoever he shall reside; and the said Samuel further, for himself, his heirs, executors, and administrators, covenants and agrees, to and with the said Elizabeth, to pay her, or cause to be paid unto her, the full sum of six hundred dollars yearly, during each and every year during the natural life of the said Elizabeth, payable in equal quarter-yearly instalments during the said term of her natural life, the first instalment to be paid three months from this date; and the said Samuel, for himself, his heirs, executors, and administrators, covenants and agrees that all his estate, both real and personal, shall be held subject and firmly bound for the payment of the said yearly sum of six hundred dollars during the full term of the natural life of her, the said Elizabeth.

In testimony whereof the said Samuel R. Potter hath hereunto set his hand and seal this thirty-first day of May, in the year of our Lord one thousand eight hundred and forty-seven.

SAM. R. POTTER. [SEAL.]

Signed, sealed, and delivered, in presence of—
MAUGER LONDON.

No. 3.

Copy of exhibit filed by complainant.

STATE OF NORTH CAROLINA,
New Hanover county.

Whereas I, Samuel R. Potter, of the State and county above written, did purchase of Elizabeth E. Potter all the right, title, interest, and estate of her, the said Elizabeth E. Potter, in and to the estate of her deceased husband, Samuel Potter, late of said county, by deed bearing date the thirty-first day of May, in the year 1847, as by reference to said deed will more fully and at large appear; and whereas the said

Elizabeth E. Potter has expressed some dissatisfaction about the consideration in said deed mentioned and contained; and whereas the said Elizabeth hath desired and requested me, the said Samuel Potter, to make her, the said Elizabeth, a further consideration, by way of an annuity for the benefit of Elizabeth Babcock, the daughter of the said Elizabeth, to take effect at the death of the said Elizabeth E. Potter; and whereas the said Elizabeth hath expressed herself entirely satisfied and content with an annuity, paid to the said Elizabeth Babcock, of one hundred and fifty dollars for each and every year during the life of said Elizabeth Babcock, of Philadelphia, the said annuity to be paid in equal half-yearly instalments, and to commence to be paid, as aforesaid, at the death of the said Elizabeth E. Potter, and not before; which satisfaction and contentment the said Elizabeth has signified by signing a written statement of the same, bearing even date with these presents; now, therefore, know ye, that I, Samuel R. Potter aforesaid, do hereby covenant and agree, to and with the said Elizabeth Babcock, of Philadelphia, and the State of Pennsylvania, [to pay] the just and full sum of one hundred and fifty dollars, for and during the natural life of her, the said Elizabeth Babcock, the first payment, as aforesaid, to be begun to be paid at the death of the said Elizabeth E. Potter, and not before, and to be paid in equal half-yearly instalments from the date of the death of her, the said Elizabeth E. Potter, for and during the natural life of her, the said Elizabeth Babcock, and no longer.

In testimony whereof, I, the said Samuel R. Potter, hath set my hand and seal, this twenty-first day of June, anno domini 1847.

SAM. R. POTTER. [SEAL.]

Signed, sealed, and delivered, in presence of—
MAUGER LONDON.

No. 4.

Copy of exhibit filed by complainant.

STATE OF NORTH CAROLINA, *New Hanover county.*

Extract from minutes of New Hanover county court, June term, 1847.

The renunciation of Elizabeth Potter, to the right of administration upon the estate of her deceased husband, Samuel Potter, is returned to court and ordered to be filed.

Copy of renunciation.

STATE OF NORTH CAROLINA, *New Hanover county.*

I hereby renounce my right to administration upon the estate of my deceased husband, Samuel Potter, and would greatly prefer that my son, Samuel R. Potter, should have the administration.

ELIZABETH E. POTTER.

31st May, 1847.

429.

STATE OF NORTH CAROLINA, *New Hanover county.*

I, L. H. Marsteller, clerk of the court of pleas and quarter sessions of the county aforesaid, do hereby certify, that the within contains a true and correct abstract from the records in my office, and also a true and correct copy of the renunciation of Elizabeth E. Potter to the right of administration upon the estate of Samuel Potter, taken from the original on file in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said county, at office in Wilmington, this 31st day of October, A. D. 1849, and in the 74th year of independence.

[SEAL.] L. H. MARSTELLER, *Clerk.*

No. 5.

Copy of exhibit filed by complainant.

Inventory of the personal property of Samuel Potter, which came into the hands of Samuel R. Potter, adm'r.

Negroes.

Joe	aged about	44	years.	Peggy	aged about	43	years.
Austin	"	37	"	Maria	"	19	"
Frank	"	37	"	Priscilla	"	19	"
Quiam	"	37	"	Betty Hatch	"	40	"
Cæsar	"	49	"	Lydia	"	39	"
Rhedic	"	37	"	Brunetta	"	35	"
Bill Usher	"	37	"	Polly Moore	"	38	"
Jim	"	25	"	Little Polly	"	19	"
Shade	"	24	"	Phebe	"	13	"
Bill Jury	"	26	"	Molly	"	39	"
Ned	"	38	"	Nancy	"	40	"
Gilbert	"	35	"	Old Peggy	"	76	"
Robert Beasly	"	21	"	Betty Moore	"	50	"
Elick	"	19	"	Ellen	Brunet's children	7	"
Little Bob	"	18	"	Henry		2	"
Dick	"	18	"	Margaret		4	"
James	"	14	"	Austin		1	"
Cudjoe	"	14	"	Tony	Peggy's childgen	5	"
Silas	"	14	"	Louisa		4	"
Peter	"	13	"	Baby		1	"
John	"	17	"	Eliza	Mary's children	6	"
Joe	"	14	"	Charles		4	"
Sandy	"	19	"	Fred		3	"
Josh	"	17	"	Betty Hatch's child		3	"
Charles	"	18	"	Betty Moore's child		5	"
Fortune	"	13	"	Lewis	Nancy's children	7	"
Austin	"	13	"	Joe		4	"
Mary	"	35	"	Baby			

Violet
Eliza Long
Cuffee
Sylvia
Minerva and her children
John
Betsy
Maria
Sylvia and 2 children

In the possession of Sterling B. Everett, and have never been in the possession of Samuel R. Potter, adm'r, and are claim by him (Everett) as an advancement.

Peter	aged about	39 years.	Emily	aged about	19 years.
Dios	"	65 "	Andrew	"	12 "
Old Polly	"	70 "	Thomas	"	10 "
Chlœ	"	40 "	Emanuel	"	18 "
Mary Ann	"	18 "	Hilliard	"	7 "
Matilda	"	19 "	Boston	"	7 "

Laura
Phebe
Yorke
Flora
Bucky
Laura's child

In the possession of John Potts Brown, and have never been in the possession of Samuel R. Potter, administrator, and are claimed by Brown as an advance.

Elsy
Sukey
Isham
Abram
Annetta

In the possession of Nicholas N. Tally, and never have been in the possession of Samuel R. Potter, administrator, and are claimed by administrator of N. Tally as an advancement.

Mary	Sam	Hager	Cumbo
Peter	Solomon	Old Hager	Andicky
Phillis	David	Dan	Robert
Pompey	William	Bob	Jupiter

At Point Peter plantation.

25 head of cattle, old and young.
⅔ of 2 flats.
⅔ working tools for 40 hands.
A lot of lumber, bricks, and lime, got for the purpose of building a barn.

At Love Grove.

⅔ of 2 carts and 1 wagon.
Hoes for 8 hands.
3 ploughs.
3 mules.

Household furniture—parlor.

4 divans and sofa to match.
12 chairs, 2 centre tables.

1 clock, 2 large looking glasses.
2 solar lamps, 5 candelabras.
4 curtains, 2 sets shovel and tongs.
1 carpet, 2 hearth rugs.

Dining room.

2 solar lamps, 1 sofa.
1 sideboard, 1 looking glass.
1 centre table, 1 pair shovel and tongs.
1 blue dinner set.
1 gilt tea set.
1 cobweb brush.
2 carpets.

2 stair carpets and 35 stair bands.
4 chamber carpets, 1 entry carpet.
2 French bedsteads, 2 mattrasses.
2 beds, bolsters and pillows, 2 bureaus with dressing glasses.
4 marble top washstands, 4 chamber china sets.
2 foot basins, 1 bedstead and bed.
1 painted stand, 1 washstand.
1 pair andirons, 4 pair shovel and tongs.
1 ironing table, 4 fenders.

At Smithville.

1 carpet matting and 1 rug.
6 blinds, 2 looking glasses.
1 sideboard and sofa.
12 chairs, 1 centre table.
1 hair seat rocking chair.
2 end tables, 2 candle shades.
1 astral lamp and mat for same.
2 spittoons, 2 mantle ornaments.
1 chimney board and irons, shovel and tongs.
Bellows and fender.

Dining room.

4 blinds, 4 looking glasses.
1 clock, 1 barometer.
1 sideboard, 1 book case.
1 table and desk.
1 candle stand.
1 candle shade.
6 chairs.
2 candle sticks, snuffers and trays.
1 chimney board.
Andirons, shovel and tongs, bellows and fender.

Bed room.

1 carpet, 2 blinds.
1 bedstead, bed, bolster, pillows, and mattrass.
1 wardrobe, bureau, and looking-glass.
2 chairs, stool-chair, breakfast table.
2 mantel ornaments and chimney board.

1st bed room up-stairs.

1 bedstead, mattrass, and bolster.
1 pillow, 1 bureau, 1 chair.
Washstand and chimney board.

2d bed room.

1 carpet, 2 bedsteads.
2 beds, 2 mattrasses.
4 pillows, 1 bureau.
1 washstand, 2 basins and pitchers.
1 table, 1 easy chair, 3 chairs.
1 map, 1 looking-glass, andirons, shovel and tongs.

3d bed room.

1 bedstead, bed, mattrass.
Bolster and 2 pillows.
1 washstand, basin, and pitcher.
2 chairs, 2 pictures, 2 quilts.
3 white counterpanes, 1 spread.
15 sheets, 18 pillow cases, 5 bolster cases.
5 bureau covers, 5 blankets.
1 comfortable, 31 towels.
12 table cloths, 12 table napkins.
1 set red curtains, 4 dimity window curtains.
1 white broken dinner set and remains of a blue set.
1 white and gilt tea set.
1 broken tea set, (pencilled.)
1 glass pitcher, 1 lustre pitcher.
1 bird globe, 2 sets castors.
3 cake (large) white plates.
3 glass dishes, 12 glass cup plates.
3 decanters, 12 champagne glasses.
7 tumblers, 5 wine glasses.
2 large dishes, 1 tureen.
2 fruit dishes, 1 gravy bowl.
5 tin covers, 11 large ivory handled knives and forks.
Carving knife, fork, and steel, 6 small ditto.
6 small ditto.
Stair carpet, 12 rods house steps.

1 water bucket, 1 safe.
1 set Britannia ware, kitchen furniture.

List of notes and other property.

A. V. W. Hewlett, 2 notes, each $1,000 00	$2,000 00
R. Langdon's note	100 00
C. Dosher & W. R. Davis, 4 notes, $25 00 each	100 00
Balance due on Robins' note for rent of store	112 50
Balance due on McMillan's note for rent of store	112 50
E. A. Cushing & J. A. Ward, note for rent of store	75 00
Bal. due on R. Taylor's note	36 23
Do. note made by vestry of St. James's church	400 00
J. R. Beaman's note	470 00
F. Agostine	475 00
S. B. Everett	2,700 00
J. P. Brown	5,060 00
Nicholas Tally	2,000 00
H. R. Savage, bond for negro hire	350 00
Bal. due on J. P. Brown, agent for owners of steamer Clarendon	30 00
Railroad Co. bond for negro hire	175 00
G. W. Davis' bond for negro hire	110 00
Carried forward	$14,306 23
Am't brought forward	14,306 23
43 shares in Bank of Cape Fear.	
10 shares in Bank of State.	
110 shares in Wilmington and Raleigh R. R. Co.	
$\frac{2}{3}$ of the crop of 1846	5,727 18
$\frac{1}{3}$ of the stock at the Gaston steam saw-mill, estimated to be	3,000 00
Am't due S. Potter by P. K. Dickinson & Co., per account rendered	1,178 49
Cash found upon the person of deceased	141 00
Ditto at his credit in Bank of the State	207 61
	10,254 28
	14,306 23
	$24,560 51

SAMUEL R. POTTER, *Adm'r.*

STATE OF NORTH CAROLINA,
New Hanover county.

I, L. H. Marsteller, clerk of the court of pleas and quarter sessions

of the county aforesaid, do hereby certify, that the foregoing is a true and correct copy from the records of my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said county, at office in Wilmington, this 25th day of July, A. D. 1848, and in the 73d year of independence.

L. H. MARSTELLER, *Clerk.*

Copy of exhibit filed by defendant.—No. 1.

STATE OF NORTH CAROLINA,
New Hanover county.

Whereas Samuel R. Potter has purchased of me all my right, title, interest, and estate, in and to the estate of my deceased husband, Samuel Potter, late of said county; and whereas I, Elizabeth E. Potter, did execute to Samuel R. Potter a deed for the same, bearing date the thirty-first day of May, in the year 1847, as by reference to the same will more fully appear; and whereas I have expressed a desire to have some provision made for my daughter, Elizabeth Babcock, after my death; and whereas the said Samuel R. Potter hath generously consented to give and grant an annuity of one hundred and fifty dollars, to be paid to my said daughter, Elizabeth Babcock, for and during her natural life, to begin to take effect from and after the date of my death, which grant is evidenced by a deed, bearing even date hereof; and whereas the said Samuel R. Potter hath desired me to signify my approval of what has been done concerning the sale of my said interest in said estate; and whereas I feel entirely satisfied with the bargain and sale of the same, and the consideration I have received, and am to receive, from the said Samuel R. Potter for the same, I hereunto set my hand this 21st June, 1847.

ELIZABETH E. POTTER.

Witness—M. LONDON.

Copy of exhibit filed by defendant.—No. 2.

No. 2.

STATE OF NORTH CAROLINA,
New Hanover county.

Know all men by these presents, that I, Elizabeth E. Potter, relict of Samuel Potter, late of said county, deceased, for and in consideration of the sum of one thousand dollars, to me in hand paid by Samuel R. Potter, of the same State and county, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged; and for the further consideration of a deed of covenant from the said Samuel R. Potter, bearing even date with these presents, by which said deed the said Samuel R. Potter covenants and agrees to pay unto me the sum of six hundred dollars every year during my natural life, in equal quarterly instalments, as by reference to said deed of covenant will more fully and at large appear, hath given, granted, bargained,

sold, aliened, conveyed, and confirmed, and by these presents do give, grant, bargain, sell, alien, and convey, and confirm, unto the said Samuel Potter, his heirs, executors, administrators, and assigns, all and singular my right, title, interest, and estate, both at law and in equity, which I, the said Elizabeth, have in and to the estate, both real and personal, of my late husband, Samuel Potter, deceased; the said interest consisting of valuable real estate in the town of Wilmington; a plantation, known as Love Grove, near the said town; one-third part of the Gaston steam saw-mill, with lumber, timber, &c.; houses and lots in the town of Smithville, Brunswick county; one fourth part of a steam mill in Georgetown, South Carolina; that is to say, my right of dower or thirds in and to the said real estate, and my distributive share or one-sixth part of all the personal estate of and belonging to the estate of said deceased husband, Samuel Potter, consisting of about eighty negro slaves, household and kitchen furniture, debts due the estate, bank stock, and other personal property; also my right of dower in and to all the lands situate, lying, and being in the county of Brunswick, and State aforesaid, of which my late husband, Samuel Potter, died seized and possessed of; also all and singular my right, title, interest, and estate, both at law and in equity, which I have, both to the real and personal estate of my said deceased husband, as his widow, and one of his distributees, wheresover the same may be, or of whatsoever kind or nature; to have and to hold all and singular the said right, title, interest, and estate in and to the said property, both real and personal, to him, the said Samuel R. Potter, his heirs, executors, and administrators. And I, the said Elizabeth E. Potter, for the better securing the title of the said property, do hereby covenant, for myself, my executors, and administrators, to and with the said Samuel R. Potter, his executors and administrators and assigns, the same against the lawful claims or demands of any and all manner of persons whomsoever, to warrant and forever defend.

In testimony whereof I hereunto set my hand and seal this thirty-first day of May, in the year of our Lord one thousand eight hundred and forty-seven.

ELIZABETH E. POTTER. [SEAL.]

Signed, sealed, and delivered, in presence of—
The word "dollars" on the first page interlined before signing.
MAUGER LONDON.

STATE OF NORTH CAROLINA.

The execution of the foregoing deed was duly proved before me by the oath of Mauger London, the subscribing witness thereto; let the same with this certificate be registered.

D. F. CALDWELL, *J. L. L. & E.*

Registered in the records of New Hanover county, in book E E, page 306. 8th November, 1847.

T. BURR, JR., *Register.*

This deed is recorded in the register's office of Brunswick county, in book O, at pages 398, 399.

S. N. GALLOWAY, *Register.*

Came to hand for registration, on the 27th day of July, 1848, and was recorded on the 31st following in the same month and year.

S. N. GALLOWAY, *Register.*

Testimony on the part of the complainants, read at the hearing, to wit:

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity, to James T. Miller and Dugald McMillan, esquires.

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Lewis Marsteller, touching and concerning what he may know in and about said controversy; and that you take such deposition in writing, and return the same under your hand and seal to the court aforesaid, at chambers, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 14th day of November, A. D. 1848.

WILLIAM H. HAYWOOD, *Clerk.*

UNITED STATES OF AMERICA,
North Carolina district.

ELIZABETH E. POTTER
against
SAMUEL R. POTTER AND MAUGER LONDON.

In equity.

Interrogatories exhibited and filed for the plaintiff in the above entitled cause, to be propounded to Lewis Marsteller, esquire, of Wilmington, North Carolina, a witness for the plaintiff.

Interrogatory 1st. Are you the clerk of the county court of New Hanover county, and as such the keeper of the records and papers belonging to said office?

Interrogatory 2d. Look at your original records of the proceedings of said court, and say whether Samuel R. Potter, son of Capt. Samuel Potter, deceased, did or did not take out letters of administration on the estate of said Captain Samuel Potter? And if yea, when, and attach

to your answer a copy of the entry made thereof upon the records of said court, word for word, as it appears on said records, setting forth the day of said order for administration.

Interrogatory 3d. Is there on file in your office an original paper assigning or relinquishing her right to administer upon said estate, signed, or purporting to have been signed, by the plaintiff, Elizabeth E. Potter, widow of the late Captain Samuel Potter, deceased, and was that paper exhibited and filed by Samuel R. Potter, his son, in said court, and when? And if there be any such paper on file in your office, say, if you are at liberty to part with the possession of the original, and if you are, attach it to your answer; or if you will not do that, then say so, and give your reasons for refusing it; and in that case attach to your answer a copy of said paper writing, word for word, and if you know the handwriting of the same, say who wrote the paper writing, and who wrote the signature to it.

Interrogatory 4th. If the said Samuel R. Potter has returned any inventory of his intestate's estate to the said court, say when he did it; and attach a copy thereof to your answer, word for word, according to the original; and if you know it, say in whose handwriting the original inventory may be.

Interrogatory 5th. Are there any suits pending, or have there been any suits pending, in said court for or against the *administrator* of Capt. Samuel Potter, deceased, and if any, attach a short docket of each case, and say who is the attorney marked of record in said suit for either side.

Interrogatory 6th. Do you know Samuel R. Potter, the defendant, and how long have you known him; what is his reputation as a man of fortune, or wealth, and what was it before his father died; do you know of his lending money, and to whom was it loaned, and who was the surety of the borrower, and when was it loaned, and upon what terms?

Interrogatory 7th. Were any of the suits referred to in your answer to 5th interrogatory commenced before Capt. Potter's death, and if any, which of them, and who are the attorneys now marked of record in said suits?

Interrogatory 8th. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

WILL. H. HAYWOOD, Jr.
Solicitor for plaintiff.

United States of America,
North Carolina district.

Circuit court. In equity.

I, William H. Haywood, clerk of the circuit court of the United

States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of interrogatories filed for the plaintiff, in the suit now pending between Elizabeth E. Potter, plaintiff, and Samuel R. Potter and Mauger London, defendants, to be propounded to Lewis Marsteller, a witness for the plaintiff.

Given under my hand and seal of office, at office, this 8th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we this day, February 2, 1849, at the office of Lewis H. Marsteller, in the town of Wilmington, proceeded to take the deposition of Lewis H. Marsteller, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants.

The said Lewis H. Marsteller being first sworn on the holy evangelist of Almighty God, deposeth and sayeth:

Answer to 1st interrogatory. Yes, I am the clerk of the county court of New Hanover, and as such am keeper of the records and papers belonging to said office.

2d. By reference to the records of June term, 1847, I find that on Monday of said term, it being the 14th day of the month, Samuel R. Potter, qualified as administrator upon all and singular the goods and chattels, rights and credits, of Samuel Potter, deceased, the following being a true and correct copy of the record made, viz:

"Ordered, that letters of administration on the goods and chattels, rights and credits, of Samuel Potter, deceased, be granted to Samuel R. Potter, upon his entering into bond in the sum of one hundred and twenty thousand dollars, with Platt K. Dickinson, James E. Anderson, and Daniel B. Baker, as sureties; which is accordingly done, and he duly qualified."

3d. There is on file in my office an original paper relinquishing the right to administer upon said estate, signed, or purporting to have been signed, by Elizabeth E. Potter, widow of the late Samuel Potter, deceased, which will more fully appear from the following entry made on the minutes of said court at the time of filing the same, and at the same time that letters were granted to Samuel R. Potter, viz: "The renunciation of Elizabeth E. Potter to the right of administration upon the estate of her deceased husband, Samuel Potter, is returned to court, and ordered to be filed."

I am not at liberty to part with the original, it being a record of my office, and which I am under heavy bonds to safely keep; a copy of which renunciation is in the following words, viz:

"STATE OF NORTH CAROLINA,
New Hanover county.

"I hereby renounce my right to administer upon the estate of my

deceased husband, Samuel Potter, and would greatly prefer that my son, Samuel R. Potter, should have the administration. 31st May, 1847."

"ELIZABETH E. POTTER."

Said paper writing is in the handwriting of Mauger London, but the signature is not, and I cannot venture to say in whose handwriting it is, as I am unacquainted with it.

4th. There was an inventory of his intestate's estate filed by Samuel R. Potter at September term, 1847, but which being very lengthy I do not feel disposed to copy without being remunerated therefor; said inventory is in the handwriting of William A. Burr, but signed by Samuel R. Potter, administrator.

5th. There are no suits pending in the county court either in favor of or against Samuel Potter, deceased, or his administrator, and has not been for some time; there is one suit on the superior court docket in which "William S. Ashe, is plaintiff, and said administrator is defendant; counsel for the plaintiff, William A. Wright and Joshua G. Wright; counsel for defendant, Daniel B. Baker and Mauger London."

6th. I am acquainted with Samuel R. Potter, the defendant, and have been for a number of years; previous to the death of his father, he was reputed to be in comfortable circumstances, owning a rice plantation and some negroes; since his father's death his property has increased, as a matter of course, from his share of the estate; and report also says, that he got some property by marriage; as to his lending money, to whom loaned, who was the surety of the borrower, when loaned, and upon what terms, I know nothing.

7th. The suit referred to in my answer to the 5th interrogatory was commenced previous to the death of Samuel Potter, and in that answer is a reply as to attorneys, &c.

8th. I know of nothing more that is material, or can benefit either party; and further this deponent sayeth not.

L. H. MARSTELLER.

D. MACMILLAN, jr.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity.

To James T. Miller and Dugald McMillan, esquires.

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of A. J. Derosset, P. Quince, and John Gammell, touching and concerning what they may

know in and about said controversy. And that you take such deposition in writing, and return the same, under your hand and seal, to the court aforesaid, at chambers, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 14th day of November, A. D. 1848.

WM. H. HAYWOOD, *Clerk*.

ELIZABETH E. POTTER
vs.
SAMUEL R. POTTER and
Mauger London.

In equity.

UNITED STATES OF AMERICA,
North Carolina district.

Interrogatories exhibited and filed for the plaintiff in the above entitled cause, to be propounded to A. J. De Rosset, jr., and Parker Quince, and John Gammell, of Wilmington, North Carolina, witnesses for the plaintiff.

Interrogatory 1st.

Are you acquainted with the parties to this suit; and did you know the late Captain Samuel Potter?

Interrogatory 2d.

Do you know the plantation of the late Captain Samuel Potter, called "Point Peter?" And if you do, set forth the value of the crops annually made there, or there and elsewhere, by Capt. Potter or his representatives, say in the years 1845, 1846, 1847, 1848; or set forth your opinion of the annual value of the said crops and the means you have had to form that opinion; also state what is the customary share of rent given to the landlord when he puts his lands to lease on shares, and what in your opinion and belief the said lands would have rented for in 1846, 1847, and 1848; and what one-third of the plantation, fairly and equitably laid off, would have rented for in [the] same years, 1846, 1847, and 1848.

Interrogatory 3d.

Was it generally believed and understood that Mauger London, esq., was insolvent, or that he was greatly embarrassed in his pecuniary affairs before his marriage? Is he now, or was he believed to be in such credit in and about June, 1847, that money-lenders would have advanced to him a thousand dollars upon loan without surety? Was it generally understood that Mauger London got a fortune by his marriage, and how much fortune?

Interrogatory 4th.

Do you know that Mauger London and Samuel R. Potter, defendants, are exceedingly intimate associates, and that they were so before June, 1847; and how long have they been so? Set forth all you know upon this point of inquiry.

Interrogatory 5th.

From Mauger London's situation and condition as respects property, would you have been willing to lend him $1,000 in June, 1847, without surety; and do you think such a loan by any man would be a prudent or a very imprudent investment of money?

Interrogatory 6th.

Do you reside in or near Wilmington, North Carolina, and what would you estimate as the pecuniary value of boarding in your family, as a member thereof, one of your female relatives, or a near relation of your wife; say her mother, or your mother?

Interrogatory 7th.

Suppose the lady boarded, referred to in the last interrogatory, to be the widow of your father, and accustomed to reside with your family, how much additional expense would it impose upon you in your housekeeping, to furnish her from your table as a member of the family? And in answering this inquiry, set forth your opinion, or your means of information on the subject.

Interrogatory 8th.

What is the price of board and lodging at the most respectable boarding houses in Wilmington, by the year and by the month?

Interrogatory 9th.

Do you know who acted as commission merchant, agent, or factor, in the sale of Captain Potter's crops in 1845, 1846, 1847, and for his representative or his son, since Capt. Potter died? If you know it, set forth a copy of said sales and the amount thereof, with a statement of the sums paid to Samuel R. Potter, and the sums unpaid, and the unsold goods and produce on hand, if there be any, and its value.

Interrogatory 10th.

Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

WILLIAM H. HAYWOOD, Jr.,
Solicitor for plaintiff.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of interrogatories exhibited and filed for the plaintiff, in the suit at issue, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; to be propounded to A. J. De Rosset, and Parker Quince, and John Gammell, of Wilmington, North Carolina, witnesses for the plaintiff.

Given under my hand and seal of office, this 9th day of November, 1848. WM. H. HAYWOOD, *Clerk.*

Interrogatories to be propounded on the cross examination, by defendants, to A. J. De Rosset and Parker Quince, witnesses to be examined on the part of the plaintiff in the case [of] Elizabeth E. Potter against Samuel R. Potter and Mauger London, in the circuit court of the United States, for the district of North Carolina:

Cross interrogatory 1st.

Do you know what relation defendant, Samuel R. Potter's wife, is to plaintiff?

Cross interrogatory 2d.

Do you know the general character of the plaintiff; if yea, was she haughty and high tempered, and a woman disposed to have her own way, and imperious in her disposition? State your sources of information.

Cross interrogatory 3d.

What is the yearly value of a good female servant, including her boarding and clothes, in the town of Wilmington?

Cross interrogatory 4th.

Have you a knowledge of the value of Captain Samuel Potter's, deceased, estate; if yea, what is the yearly value of the widow's interest, to wit, one-third of the land and one-sixth part of the personal estate? State to the best of your knowledge. Do you think that Mauger London's, one of the defendants, note in 1847, would have been good without security for $1,000.

JOHN H. BRYAN,
Solicitor for defendants.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, in equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of cross interrogatories to be propounded to A. J. DeRosset and Parker Quince, witnesses on the part of plaintiff, in the suit in equity in this court.—Elizabeth E. Potter, plaintiff, and Samuel R. Potter and Mauger London, defendants.

Given under my hand and seal of office, at office, this 6th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we, this day, 16th February, 1849, at the office of James T. Miller, in the

town of Wilmington, proceeded to take the deposition of Armand J. De Rosset, jr., to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants.

The said Armand J. De Rosset, being first duly sworn on the holy evangelist of Almighty God, deposeth and sayeth as follows:

To interrogatory 1st he answereth as follows:

Answer. I do.

Interrogatory 2d.

Answer. I do know Point Peter plantation, and think the gross value of the crops, in the years mentioned, was about eight to ten thousand dollars per year. I acted as agent for the sale of the crops. I know nothing of renting of lands on shares or otherwise.

Interrogatory 3d.

Answer. Mr. London failed in the mercantile business some years since; but after his marriage, by which I think it is generally believed he acquired some property, and being in business as a lawyer, he has been in fair credit. Money lenders are not in the habit of advancing money to any one without security.

Interrogatory 4th.

Answer. Mauger London and Samuel R. Potter are intimate associates, and have been so I think for some years; they are more so since the death of Captain Potter; Mr. London having been employed as a legal adviser by Mr. Potter.

Interrogatory 5th.

Answer. From what I know of the situation of Mr. London I think a friend, having confidence in him, might have lent him, at the time specified, or since, one thousand dollars without security, for a short time, without danger of loss.

Interrogatory 6th.

Answer. I reside in Wilmington; do not know what the pecuniary value of board is; but house-keeping is very expensive, owing to the high prices of provisions usually in the market.

Interrogatory 7th.

Answer. In a large family, as mine is, I should not think the additional expense of boarding a female relative would be very considerable; but in a small family the difference would be quite material.

Interrogatory 8th.

Answer. From twenty to twenty-five dollars per month in hotels and boarding houses; in private houses from sixteen to eighteen dollars.

Interrogatory 9th.

Answer. Brown and De Rossett have acted as agents for Capt. Potter for a number of years, and since his death for his son; previous to Capt. Potter's death, by an arrangement between him and his son, Samuel R. Potter, the latter received one-third of the nett sales of the crops for his services in superintending the plantation.

Interrogatory 10th.

Answer. Nothing more that I know of.

Cross interrogatories propounded to A. J. De Rosset, jr.

Interrogatory 1st.

Answer. Grand-daughter.

Interrogatory 2d.

Answer. I do not know personally, but have heard from Capt. Potter himself, and from members of his family, that Mrs. Potter's disposition and character was such as is described in the interrogatory.

Interrogatory 3d.

Answer. Good female servants hire in this place at sixty to seventy-five dollars per year; and should think that boarding and expenses would not be less than seventy-five or eighty dollars.

Interrogatory 4th.

Answer. Capt's Potter's real estate is supposed to be worth about forty thousand dollars, and his personal estate about sixty thousand; I do not know the amount of debts, nor can I tell the yearly value of the widow's interest; the principal income being received from the Rice plantation, much would depend upon the management of that property; I should think Mr. London's note for one thousand dollars, in 1847, would have been good without security; further deponent sayeth not.

A. J. DEROSSET, Jr.

At the time this deposition was taken there was no person present but the commissioners and witness.

D. MACMILLAN, *J. P.*
JAS. T. MILLER, *J. P.*

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity, to James T. Miller and Dugald McMillan, esquires:

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court, in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of P. K. Dickinson touching and concern ing what may know in and about said controversy; and that you take such deposition in writing and return the same under your hand and seal, to the court aforesaid, at chambers, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 14th day of November, A. D. 1848.

WM. H. HAYWOOD, *Clerk.*

ELIZABETH E. POTTER
against
SAMUEL R. POTTER and Mauger London. } In equity.

UNITED STATES OF AMERICA,
North Carolina district.

Interrogatories exhibited and filed for the plaintiff in the above entitled cause, and to be propounded to Platt K. Dickinson, a witness for the plaintiff.

Interrogatory 1st. Did the late Capt. Samuel Potter own a share as partner in the Gaston steam mills, in or near Wilmington, North Carolina; and if he did, what share, and who was his co-partners, and when did the partnership commence, and what were the terms or conditions of said partnership? And in answering this interrogatory you will set forth the writings (if any) whereby the said partnership was formed, &c., or copies.

Interrogatory 2d. At the time of Capt. Samuel Potter's death, what was the value of his share, or interest, or the profits, and in the personal goods of said partnership; I mean what was the value of his share of everything belonging to the partnership, besides the steam mill itself? Answer according to the best of your knowledge and belief, and state your means of information.

Interrogatory 3d. At the time of Capt. Potter's death, what was the value of thesteam mill and land attached to it? I mean to inquire as to the value of the fee simple in the whole estate.

Interrogatory 4th. What did the Gaston steam mills, lands included, cost the proprietors; what was the annual nett profits of said mills in each year after the work had been completed, and the mills set for running?

Interrogatory 5th. If the said Gaston steam mills had been leased, what, in your opinion, would have been a fair annual rent; and supposing you had been inclined to lease out the said mills to a tenant, what would you have considered a fair and reasonable rent per year, beginning with May, 1847? Answer this according to your best judgment, and information, and belief, and state the means of your information.

Interrogatory 6th. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

WILL. H. HAYWOOD, Jr.,
Solicitor for plaintiff.

UNITED STATES OF AMERICA,
North Carolina district, circuit court.

In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of the interrogatories exhibited and filed for the plaintiff in the suit now pending in this court, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants, to be propounded to Platt K. Dickinson, a witness for the plaintiff.

Given under my hand and seal of office, at office, this the 8th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission, to us directed, we this day, March 29th, 1849, at the office of James T. Miller, in the town of Wilmington, proceeded to take the deposition of Platt K. Dickinson, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; the said P. K. Dickinson, being first duly sworn on the holy evangelist of Almighty God, deposeth and sayeth, as follows:

Answer to 1st question. Yes, he did; he owned one-third; I was his partner the following: Wilmington, N. C., 6th February, 1846. I have this day sold to Captain Samuel Potter one-third of the Gaston steam saw and planing mills, including the purchase of a lease of a site for a timber pen, previously made from him, at the rate of forty thousand dollars for the whole; also one-third of the stock of said mills as it stands this day in my books, as per accounts rendered him. The business of the mills is to be conducted by me, under the firm of P. K. Dickinson & Co., for which I am to receive from the firm a salary of two thousand dollars per annum.

Signed, P. K. DICKINSON,
Signed, SAM'L POTTER.

Answer to 2d question. I consider the best answer that can be made to this question is, to state that by a trial balance, taken on the 31st day of May, 1847, the mills had made a profit of $9,563 34, one-third of which was his.

Answer to 3d question. About the price at which he purchased.

Answer to 4th question. I built the Gaston mills, which cost, with lands included, about $50,000. I cannot answer this question correctly, as we did not take annual balances; but, as I before stated, the amount made from the time of Captain Potter's purchase up to the 31st day of May, 1847, was $9,563 34.

Answer to 5th question. I should say that ten per cent. on the cost

of the property, the lessee keeping it in repair, would be a fair rent, which would be about $5,000; I give this opinion from my long acquaintance with the business of sawing lumber.

Answer to question 6th. I do not think of any thing more that I can say that would be material to the issue, unless it be this, that, on the 30th day of October, 1847, I purchased from the heirs of the late Samuel Potter their one-third interest in the Gaston mills, including stock and profits, at the rate of $45,000, having given them the option of buying my interest at the same rate.

P. K. DICKINSON.

D. MACMILLAN, *J. P.*
JAS. T. MILLER, *J. P.*

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity.

To James T. Miller and Dugald McMillan, esqrs.

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court, in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Wm. H. Dudley and Parker Quince, touching and concerning what [they] may know in and about said controversy. And that you take such deposition in writing, and return the same under your hand and seal, to the court aforesaid, at chambers, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 14th day of November, A. D. 1848.

WM. H. HAYWOOD, *Clerk.*

ELIZABETH E. POTTER
against
SAMUEL R. POTTER and Mauger London.

UNITED STATES OF AMERICA,
North Carolina district.

In equity.

Interrogatories exhibited and filed on the part of the plaintiff, to be propounded to Wm. H. H. Dudley and Parker Quince, esquires, witnesses for the plaintiff.

Interrogatory 1st. Do you cultivate, or have you cultivated, a rice farm near Wilmington, North Carolina, and were you ever upon, or near, the rice farm of the late Capt. Samuel Potter, called his Point Peter place, managed by his son, Samuel R. Potter; and do you know or have you ever heard the defendant, Samuel R. Potter say, or have you any other means of telling, the quantity of rice and other grain which

was made upon the said farm, or upon it and the lands adjacent to it, of the crop of 1847, or the quantity which was probably made on said lands?

Interrogatory 2d. Answer the same question in respect to the crop of 1846.

Interrogatory 3d. If Capt. Potter's said Point Peter lands had been offered for sale, what do you think they are worth; and had they been rented out to the best advantage, for a share of the crop, what, by the custom of the neighborhood, is the proportion of crops paid by those who rent lands ready for culture, like Point Peter; had these lands been leased for money, what were they worth, according to your judgment, per year; had one-third of said lands, fit for the culture of grain, rice, or other grain, been laid off fairly, how much per year do you think the said one-third might have been rented for yearly?

Interrogatory 4th. What is the yearly value of the house and lot in Wilmington, North Carolina, on Market street, wherein Capt. Samuel Potter lived at and immediately before his death?

Interrogatory 5th. Do you know, or can you set forth, any other matter or thing which *which* will be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

WILL. H. HAYWOOD, Jr.,
Solicitor for plaintiff.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of the interrogatories filed and exhibited for the plaintiff, in the suit at issue in this court—Elizabeth E. Potter, plaintiff, against Samuel R. Potter and Mauger London, defendants; to be propounded to William H. H. Dudley and Parker Quince, witnesses on the part of the plaintiff.

Given under my hand and seal of office, at office, this the 8th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we, this day, March 30th, 1849, at the office of James T. Miller, in the town of Wilmington, proceeded to take the deposition of Wm. H. Dudley, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants. The

said Wm. H. Dudley, being first sworn on the holy evangelist of Almighty God, deposeth and says as follows:

To the first interrogatory he answers as follows:

Interrogatory 1st. I have cultivated a rice farm, and have for the last four years; I have been on the place of the late Captain Samuel Potter, called the Point Peter rice plantation, but what quantity of rice was made on the place during the year 1847, I have no knowledge.

Interrogatory 2d. Answer same as above.

Interrogatory 3d. I think that if the Point Peter lands had been offered for sale they ought to have been worth fifteen thousand dollars; and if rented out yearly, the land would be entitled to one-third of the crop.

Interrogatory 4th. I suppose the yearly rent of the late Capt. Samuel Potter's house and lot, in the town of Wilmington, would be six hundred dollars.

Interrogatory 5th. I know of nothing that will be of any benefit or advantage to either party.

WM. H. DUDLEY.

D. MacMillan, *J. P.*
Jos. T. Miller, *J. P.*

United States of America,
North Carolina district.

Circuit court of the United States, in equity.

To James T. Miller and Dugald McMillan, esquires.

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God the deposition of Thomas D. Mears, touching and concerning what he may know in and about said controversy; and that you take such deposition in writing, and return the same under your hand and seal to the court aforesaid, at chambers, for the North Carolina district, in Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 14th day of November, A. D. 1848.

W. H. HAYWOOD, *Clerk.*

Elizabeth E. Potter
against
Samuel R. Potter and Mauger London.

In equity.

Interrogatories exhibited and filed for the plaintiff in the above enti-

tled cause, and to be propounded to Thomas D. Mears, esquire, of Wilmington, North Carolina, a witness for the plaintiff, &c.

Interrogatory 1st. Are you clerk and master of New Hanover county, and are there any suits pending in said court for or against Samuel R. Potter, the defendant; and if any, say who is the attorney of record for the said Samuel R. Potter?

Interrogatory 2d. Was or was not a bill filed in said court by Samuel R. Potter, claiming to be the assignee of Elizabeth E. Potter, against the heirs-at-law of Capt. Samuel Potter, deceased, and praying for the allotment of dower in said Capt. Samuel Potter's, deceased, real estate; and if so, who is the attorney of record for said Samuel R. Potter, the plaintiff in said bill; what attorney's name is signed to the said bill, and when was the bill filed, and did not Samuel R. Potter himself sign his own name to said bill? If you know the handwriting, say in whose handwriting the said bill is written.

Interrogatory 3d. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

WILL. H. HAYWOOD, Jr.,
Solicitor for plaintiff.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit, in equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of interrogatories filed for the plaintiff in the cause at issue in this court, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; to be propounded to Thomas D. Meares, a witness for the plaintiff.

Given under my hand and seal of office, this the 8th day of November, 1848.

W. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we this day, February 16th, 1849, at the office of Thomas D. Mears, in the town of Wilmington, proceeded to take the deposition of Thomas D. Mears, to be read in evidence in a certain suit now pending in the circuit court of the United States, for the district of North Carolina, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London, defendants; the said Thomas D. Mears, being first sworn on the holy evangelist of Almighty God, deposeth and sayeth as follows:

Interrogatory 1st, he sayeth as follows:

I am clerk and master in equity; president and directors of the Commercial Bank against Samuel R. Potter; London, attorney for plaintiff; no attorney for defendant. There is also a case, S. B. Everett and wife, John Potts Brown and wife, N. N. Thally and wife, and others, against Samuel R. Potter, administrator of Samuel Potter; Joshua G. Wright counsel for plaintiffs; no counsel for defendant. Another case of Samuel R. Potter against Elizabeth E. Potter, S. B. Everett and wife, N. N. Thally and wife, and others; London, Reid, attorneys for plaintiff; Wright for defendants.

Also another suit, Platt K. Dickinson against Samuel R. Potter, S. B. Everett and wife, N. N. Thally and wife, and others; attorney for plaintiff, Wright; no attorney for defendants.

Interrogatory 2d.

Answer. There was a bill filed in the court of equity by S. R. Potter, claiming the dower interest of Elizabeth E. Potter, by a deed of conveyance executed by her, bearing date 31st day of May, 1847, conveying unto the said Samuel R. Potter, for a valuable consideration, all her right, title, interest, and estate, in and to the dower, a third of the lands of Samuel Potter, deceased, and praying an allotment of the same to him; said bill was sworn to in the county of Brunswick, before Samuel Langdon, clerk of the county court, by Samuel R. Potter, as appears by said bill, on the 28th day of June, 1847; said bill is signed by M. London, as solicitor for complainants, the attorneys of record for complainants, are London and Reid.

I cannot say that I am acquainted with the handwriting of the bill, though I believe it to be M. London's.

Further the deponent sayeth not.

THOMAS D. MEARS.

D. MacMillan, *J. P.*
Jas. T. Miller, *J. P.*

United States of America,
North Carolina district.

Circuit court of the United States, in equity.

To James T. Miller and Dugald McMillan, esquires:

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Thomas H. Wright and Wm. E. Anderson, touching and concerning what they may know in and about said controversy; and that you take such deposition in writing, and return the same under your hand and seal, to the court aforesaid, for the North Carolina district, at Raleigh, together with this writ.

Witness, James M. Wayne, esq., associate justice of the United State, at Raleigh, the 14th day of November, A. D. 1848.

WM. H. HAYWOOD, *Clerk.*

ELIZABETH E. POTTER
against
SAMUEL R. POTTER, and
MAUGER LONDON.

UNITED STATES OF AMERICA,
North Carolina district.

In equity.

Interrogatories exhibited and filed for the plaintiff in the above entitled cause, and to be propounded to Thomas H. Wright and William E. Anderson, esquires, witnesses for the plaintiff.

Interrogatory 1st.

Do you know who is the president of the Bank of Cape Fear? And if yea, say who is.

Interrogatory 2nd.

Did the said Bank of Cape Fear purchase a lot of ground from the late Samuel Potter in his lifetime, and when, and for how much?

Interrogatory 3d.

Has the purchase money for said lot of ground been paid; and if not all paid, has any part of it been paid, and when and to whom were the payments made, and how much remains unpaid?

Interrogatory 4th.

Do you know who is the cashier of the Branch Bank of the State of North Carolina? And if yea, do say who it is.

Interrogatory 5th.

Did Capt. Samuel Potter, now deceased, have an account in that bank, and how much stood to his credit at his death, or since he died?

Interrogatory 6th.

How many shares of stock in the Bank of the State of North Carolina did the said Captain Potter own at his death, and what was the market value of said stock in June, 1847?

Interrogatory 7th.

How many shares of stock in the Bank of Cape Fear did the late Captain Samuel Potter own in said bank at his death, and what was the market value of said stocks in June, 1847?

Interrogatory 8th.

Was there any sum of money on deposit, or to the credit of said Samuel Potter in the Bank of Cape Fear at his death? And if there was, tell how much.

Interrogatory 9th.

Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of your examina-

tion or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

WILL. H. HAYWOOD, JR.,
Solicitor for plaintiff.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit, in equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of interrogatories exhibited and filed for the plaintiff in the suit in equity at issue, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants, to be propounded to Thomas H. Wright and William E. Anderson, esqrs.

Given under my hand and seal of office, at office, this the 10th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we this day, the 2d of February, 1849, at the Bank of the State of North Carolina, *we* proceeded to take the deposition of W. E. Anderson, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; the said W. E. Anderson being first sworn on the holy evangelist of Almighty God, deposeth and sayeth as follows:

To the interrogatory 1st.

I answer as follows: Dr. T. H. Wright.

Interrogatory 2d

Answer. I do not know.

Interrogatory 3d.

Answer. Same reply.

Interrogatory 4th.

Answer. W. E. Anderson.

Interrogatory 5th.

Answer. At the time of his death there was nothing to his credit, but he had overdrawn his account a small amount by the purchase of a check on Charleston for $5,000 a day or two before his death.

Interrogatory 6th.

Answer. He owned ten shares; and I think the value in market at the time was $110 per share.

Interrogatory 7th.

Answer. I do not know.

Interrogatory 8th.

Answer. I do not know.

Interrogatory 9th.

Answer. There had been dividends on the stock owned by Captain Potter since his death, eighty dollars of which have been drawn out by his administrator, and eighty dollars still in bank at this date.

The check referred to in interrogatory 5th was returned to the bank, and another for same sum obtained, payable to Thomas F. Gause, of Georgetown, South Carolina, to whose use as copartner in the mills at that place it was originally designed.

W. E. ANDERSON.

JAS. T. MILLER, *J. P.*
D. MACMILLAN, *J. P.*

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity.

To James T. Miller and Dugald McMillan, esquires: Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Daniel B. Baker, touching and concerning what he may know in and about said controversy; and that you take such deposition in writing, and return the same under your hand and seal, to the court aforesaid, at chambers, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 14th day of November, A. D. 1848.

WM. H. HAYWOOD, *Clerk.*

ELIZABETH E. POTTER
against
SAMUEL R. POTTER and Mauger London. } In equity.

UNITED STATES OF AMERICA,
North Carolina district, circuit court, fifth circuit.

Interrogatories exhibited and filed for the plaintiff in the above entitled cause, to be propounded to Daniel B. Baker, esquire, attorney at law of Wilmington, North Carolina, a witness for the plaintiff.

Interrogatory 1st.

Do you know, or have you any information, whether the late Capt. Samuel Potter in his lifetime made advancements, or loans, or gifts of any kind, in money or property, to his son Samuel R. Potter, and to his daughters or their husbands, or to any or either of them; and if yea, then of what did the said loans, gifts, and advancements consist, and when were they made, and what is their value?

Interrogatory 2d.

Do you know what was the pecuniary condition of Samuel R. Pot-

ter, son of Capt. Samuel Potter, deceased, at his death, or had you any information about his wealth; and if yea, what was it, and how much was he worth, or reputed to be worth, before his marriage; and how much after it, and before his father's death? And you will say what means Samuel R. Potter had of making property or money before his marriage, independent of what his father may have advanced to him.

Interrogatory 3d.

Do you know that Capt. Samuel Potter had an account book or other book or memorandum in which he charged his children for advancements made by him, or with loans; did you ever see it; or did you ever hear Capt. Potter say he had it; or did you ever hear the defendant, Samuel R. Potter, say there was such a book, or such an account kept; and do you know what has become of that book, account, or memorandum?

Interrogatory 4th.

If you ever saw the account referred to in the last preceding interrogatory, say when it was, and in whose hands, and under what circumstances; if you heard the defendant speak of it before his father died, state under what circumstances, and all that he said at that time.

Interrogatory 5th.

Have you any knowledge or information in respect to the value of the crop of Capt. Potter in 1846 and 1847, and can you state the value of said crops respectively? Answer all you know upon this point.

Interrogatory 6th.

Did you attend the burial of Capt. Samuel Potter, deceased, at Smithville, North Carolina, on 30th May, 1847, and did you hear any thing before his burial, or on the day after his burial, as to the person who was to administer upon his estate; and what was it you heard, if you heard any thing about it, and from whom did you hear it?

Interrogatory 7th.

Did you know that the defendant Samuel R. Potter was negotiating with his step-mother to purchase from her the widow's interest in Capt. Potter's estate, until the purchase had been made; when did you first hear it, and from whom did you hear it?

Interrogatory 8th.

Answer the same question in respect to the right of administering on Capt. Potter's estate.

Interrogatory 9th.

Has there been a sale of any of Capt. Potter's negroes since his death, and if so, to whom, and by whom were said sales made; and what are the names of the negroes sold; and how was the price fixed upon? State all that took place upon this subject, or upon any other that was connected with it, by the parties, and what was the true value of said negroes.

Interrogatory 10th.

Has there been a sale or division or a settlement, made in whole or in part, between the defendant Potter and the other heirs and next of kin

of Capt. Potter, deceased; or has there been any agreement, arrangement, or understanding, in whole or in part, of or concerning the said estate; and if yea, is there any written paper on that subject, and who has it, and what are its contents? Or if not in writing, say what is the purport of the said agreement or understanding, if there be any; if nothing of the kind has taken place amongst all the next of kin, has it been done by some of them?

Interrogatory 11th.

What is the yearly value of the Point Peter lands of the late Capt. Potter, according to your opinion and belief; or how much would part of said lands which are in a condition for culture yield in grass if the lands had been let out on shares to prudent managers, in lots to secure tenants, say according to your best judgment and belief?

Interrogatory 12th.

What is the yearly value of the late Capt. Potter's lots and houses in Wilmington, North Carolina, and in Smithville, North Carolina? Designate each one, and attach its value and annual rent; answer the same of his other lands.

Interrogatory 13th.

Have you ever seen the inventory of the defendant as administrator of the late Capt. Potter, as made out and returned by him? Answer and say whether you believe it is correct, and if not, state what errors are in it, whether of omission or commission.

Interrogatory 14th.

Do you know who is the attorney at law of the defendant, Samuel R. Potter, and how long he has been his attorney; and who was his attorney and counsellor heretofore?

Interrogatory 15th.

Did you marry a daughter of Captain Potter, and at what time, and when did your wife die; and how many children survived her, and also survived Captain Potter?

Interrogatory 16th.

When did the defendant, Samuel R. Potter, get married; where did he live before his marriage; and where did he live afterwards; by this I mean to inquire whether he lived with his father and step-mother, and in the same house, as part of the family, and how long; was the defendant, Samuel R. Potter, the agent or manager of his father, and to what extent did he have charge of his father's affairs; and upon what terms did he fulfil said agency, so far as you know or heard, before Captain Potter's death; did his agency continue until Captain Potter died?

Interrogatory 17th.

Did Mrs. Potter, the plaintiff, go to Smithville on 30th May, 1847, to attend her husband's burial, and did you go on board of the same boat with her?

Interrogatory 18th.

Did you see the defendants, Samuel R. Potter and Mauger London, esquires, on the same boat that day, and did you observe them together

during the trip to Smithville, or either or both of them, in the cabin or elsewhere with Mrs. Potter, the widow; did you have any conversation that day with Mrs. Potter, and if you did, what was the subject of it, and substance of it, should you now recollect it?

Interrogatory 19th.

Did you return from Smithville on that day, and on the boat which conveyed Mrs. Potter back to Wilmington; and if yea, did you see Mauger London, esquire, and Samuel R. Potter on board, and did you observe them talking much together, or either of them conversing with Mrs. Potter, or in the cabin with her? Tell all you heard, if you heard any thing and can now recollect it.

Interrogatory 20th.

Are you a resident of Wilmington, North Carolina, and well acquainted with Samuel R. Potter and Mauger London, esquire? Answer whether the said Samuel R. Potter and Mauger London are or have been very intimate associates or friends, and at what time their intimacy commenced.

Interrogatory 21st.

Was it generally understood and believed that Mauger London, at or before the time of his marriage aforesaid, was embarrassed in his pecuniary affars, so as to make it doubtful whether he was able to pay his debts or not?

Interrogatory 23d.

If not understood to be insolvent, was it generally believed and understood that he was a man of property, or otherwise; or was he in so good credit with money lenders as to be able to borrow sums as large as $1,000 without giving surety for its repayment?

Interrogatory 24th.

Has the said London's credit improved since his marriage aforesaid, and how much is he thought to be worth since his marriage; was it understood and believed that he got a fortune by his marriage, and do you know how much; do you know that Mauger London, in June, 1847, or before it, or since, was indebted to any considerable amount, and how much; if you do not know it, have you generally heard it reported to be the case?

Interrogatory 25th.

Was any proposition ever made to you to unite with any other person or persons in buying the dower right to Captain Samuel Potter's real estate from the widow, or from Samuel R. Potter; and if yea, by whom? Tell all you know that took place on this subject, giving in your answer a full detail of conversations held on the subject at any time or times since Captain Potter died; whether with the defendants or any of the heirs of Captain Potter or their husbands.

Interrogatory 26th.

Do you know the Point Peter lands? If yea, set forth all you may know or believe as to the value of the crops made thereon since Capt. Potter died, to wit, the crop of 1847 and 1848, and by whom it was received; the same of the crop of 1846, before he died.

Interrogatory 27th.

You will see, by looking at the inventory returned to New Hanover county court, that Samuel R. Potter has omitted to state the dates when the bonds and notes owing to Capt. Potter, deceased, fell due, beginning with the notes of A. V. W. Hewlett, and ending with the note of George W. Davis; set forth, if you can, or as nearly as you are able to do it, the dates of said notes, or the amount of interest which had accrued on them up to the day of making said inventory, to wit, August county court, 1847.

Interrogatory 28th.

What was the value of the slaves mentioned in said inventory as "being in the possession of Sterling B. Everett, &c.;" estimating their value at August county court aforesaid, in 1847? Answer the same question in respect to the slaves mentioned as being in possession of John Potts Brown. Answer the same question in respect to the slaves mentioned as being in possession of Nicholas W. Tally.

Interrogatory 29th.

What was the value of the furniture in said inventory mentioned; what is the value of the slaves not sold by the administrator? And set forth their names and ages, as nearly as you are able to do it, in your answer.

Interrogatory 30th.

Did you at any time hear Samuel R. Potter, the defendant, say or declare what is the value he himself places upon the dower-right in Capt. Potter's real estate; do you know of any terms offered to him by the other heirs, or any of them, for a release, and an immediate partition; and if yea, what was the offer; by whom was it made; where was it made; and what was the reason said Samuel R. Potter assigned for refusing to accept it?

Interrogatory 31st.

Are you a practising attorney in the courts of Wilmington, and how long have you been so?

Interrogatory 32d.

Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

WM. H. HAYWOOD, Jr.,
Solicitor for plaintiff.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of the interrogatories exhibited and filed by the plain-

tiff in the suit at issue in this court, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; to be propounded to Daniel B. Baker, attorney at law, a witness for the plaintiff.

Given under my hand and seal of office, at office, this the 9th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

Interrogatories to be propounded on the cross examination by defendants, to Daniel B. Baker, esquire, of Wilmington, North Carolina, a witness to be examined, on the part of plaintiff, in the case of Elizabeth E. Potter, against Samuel R. Potter and Mauger London, in the circuit court of the United States, for the district of North Carolina.

Cross interrogatory 1st.

Do you know the parties to this suit; if yea, do you know the wife of the defendant, Samuel R. Potter, and what relation she is to the plaintiff? And can you state how long since plaintiff married her late husband, Samuel Potter, deceased, and where she lived during said marriage?

Cross interrogatory 2d.

Do you know, or have you any reason to believe, that the large crops that have been made on the Point Peter plantation, late the property of Capt. Samuel Potter, deceased, were so made through the superior skill and management of defendant, Samuel R. Potter; and do you believe that similar crops could be made by any overseer that might be hired to superintend the same?

Cross interrogatory 3d.

Can you state *that* the yearly value of the interest of the plaintiff in the estate of her late husband, Samuel Potter, deceased, to wit, the dower interest in the lands, and a child's share in the personal estate, is worth?

Cross interrogatory 4th.

If, in answer to direct interrogatory numbered 20, you answer yea, would you, during the year 1846 or 1847, have considered it safe to loan said London $1,000 without security; and would you have loaned him that sum?

Cross interrogatory 5th.

Do you know, and can you state, the circumstances under which Mauger London, esquire, one of the defendants, was retained as counsel for defendant, Samuel R. Potter, in the management of the estate of Capt. Samuel Potter, deceased?

Cross interrogatory 6th.

Do you know what reputation the plaintiff had as to imperiousness of character—by which I mean to ask, if she was self-willed and dictatorial? State the sources of your information, if any.

Cross interrogatory 7th.

Do you know, or have you reason to believe, that plaintiff, during the life of her late husband, Capt. Samuel Potter, deceased, exercised

authority and dominion over the household to such an extent as frequently to exclude from his own house his own children?

Cross interrogatory 8th.

Do you think plaintiff was a fit person to administer on the estate of her late husband, Capt. Samuel Potter?

JOHN H. BRYAN,
Solicitor for defendants.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of cross interrogatories, filed and exhibited by the defendants, to be propounded to Daniel B. Baker, a witness on the part of the plaintiff in the suit in equity wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are the defendants.

Given under my hand and seal of office this the 6th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

ELIZABETH E. POTTER
against
SAMUEL R. POTTER and Mauger London. } In equity.

UNITED STATES OF AMERICA,
North Carolina district.

The depositions or answers of Daniel B. Baker to the interrogatories propounded to him for the plaintiff in the above entitled cause:

To the first interrogatory he saith:

I do not know that the late Capt. Samuel Potter made advancements or loans to his son, Samuel R. Potter, or gifts of any kind. I believe he made loans to his daughter, Mrs. Tolly, consisting of slaves; that he made loans to his daughter, Mrs. Everett, consisting of slaves; that he made loans to his daughter, Mrs. Brown, consisting of slaves. I believe that he loaned money to his son-in-law, Nicholas Tolly, to his son-in-law, S. B. Everett, and that he gave, as an advancement to his son-in-law, John P. Brown, a steamboat, estimated at four thousand dollars; the number of slaves, or their value, or the amount of money loaned, I do not know. I do not know when these loans or advancements were made.

To the second interrogatory he saith:

I do not know precisely the pecuniary condition of Samuel R. Potter at the time of his father's death. I know that some years before his father's death he sold to A. J. Young a rice plantation, and, I think, ten or twelve negroes. My impression is, Mr. Young gave him

ten thousand dollars, or rather his notes for that sum. I do not know of any other property he had at the time of his father's death, with the exception of two valuable negro servants. I do not know what he was worth previous to his marriage. I think he had not much property. I do not think he had any means of making money or property, except from his services rendered for his father on his rice plantation. I know that he attended to that business for his father, and I think that I have heard them both say, *that* he was to receive one-third of the profits or crops.

To the third interrogatory he saith:

I do not know, of my own knowledge, that Capt. Potter kept such a book. I never saw it myself, nor did I ever hear Captain Potter say he had such a book. Since his death, I have heard Samuel R. Potter and his son-in-law, S. B. Everett, say, that there was such a book, and each expressed his surprise that it could not be found. I do not know what has become of it.

To the fourth interrogatory he saith:

I never saw it. I never heard the defendant speak of it previous to his father's death.

To the fifth interrogatory he saith:

I do not know the value of the crops of 1846 and 1847. If I have heard, I have forgotten.

To the sixth interrogatory he saith:

I did not attend the burial of Capt. Potter. I was unwell, and did not go down. I do not remember to have heard on that day, or previous to that day, anything said on the subject of administering.

To the seventh interrogatory he saith:

I did not know that Samuel R. Potter *with* his step-mother to purchase from her her interest in Capt. Potter's estate, until the purchase had been made; Samuel R. Potter informed me of it a few days after the purchase, I think; this was the first intimation I received of it.

To the eighth interrogatory he saith:

I do not recollect that anything was said at that time about administering; some time after that I heard that the widow had renounced her right to administer, and that Samuel R. Potter would administer.

To the ninth interrogatory he saith:

Since the death of Capt. Potter sixty-eight of the negroes have been sold by all of the next of kin to Samuel R. Potter; I do not remember that any particular mode was adopted for fixing on the price; that number of negroes, and the Point Peter rice plantation, were sold for thirty-seven thousand dollars; I do not remember the names of the negroes, or their true value; I know very few of the negroes; it was thought by all concerned at the time to be a fair price; others interested knew more about the property than I did, and I consented to take for my son what they were willing to take.

To the tenth interrogatory he saith:

I have already mentioned the sale of the rice plantation and sixty-eight negroes; I believe a deed was made for that part of the estate,

which is probably in the possession of Samuel R. Potter; besides that, there has been a division among the next of kin of twelve or fifteen negroes; a petition for that division was filed in the county court of New Hanover, and commissioners appointed, who made the division; I think the Cape Fear Bank stock has been divided also; this is all I recollect on the subject.

To the eleventh interrogatory he saith:

I have no experience in rice planting; I do not know what is the rule in renting such lands; what would be the yearly value of the Point Peter lands would depend, I should suppose, upon the manner in which they were cultivated; the lands, in my opinion, would not yield so much let out in lots or shares to different persons, as if let out or rented to one competent person; in fact, I cannot tell how such a thing could well be done; however, my opinion is worth nothing on the subject.

To the twelfth interrogatory he saith:

I do not know the value; I believe the dwelling in which he lived, and the stores underneath, rent for six hundred dollars annually; I know of two other dwellings he owned in the town of Wilmington; I think they ought to rent for one hundred and twenty-five dollars each; I do not recollect any other real estate in Wilmington; there are two good dwelling-houses in Smithville, which are worth a yearly rent of one hundred dollars each; there are two or three stores in Smithville I should think ought to rent for two hundred or two hundred and fifty dollars; all of them, I mean; his dwelling-house in Wilmington, with the stores beneath, are worth about ten thousand dollars; his two other dwelling-houses in Wilmington are worth about one thousand dollars each; the two dwelling-houses in Smithville are worth about one thousand dollars each; the stores in Smithville are worth about twelve hundred dollars; his other lands in Brunswick are not worth much, perhaps fifteen hundred dollars.

To the thirteenth interrogatory he saith:

I have not seen the inventory.

To the fourteenth interrogatory he saith:

Mauger London, esquire, is his attorney-at-law in the management of the estates; I do not know that Samuel R. Potter employed an attorney or counsellor previous to the death of his father.

To the fifteenth interrogatory he saith:

I did marry a daughter of Capt. Potter in the year 1828; my wife died in the year 1832, and left one child only surviving her. Capt. Potter left four children surviving him.

To the sixteenth interrogatory he saith:

The defendant, Samuel R. Potter, has been twice married; he was married the second time about six years since; he lived with his father and step-mother in the same house, as part of the family, before and after his marriage; Samuel R. Potter was the agent of his father in the management of his Point Peter rice plantation, and was to receive, and

440.

I believe did receive, one-third of the profits or crops; that agency continued until the death of his father.

To the seventeenth interrogatory he saith:

Mrs. Potter did go to Smithville to attend her husband's burial; I did not go.

To the eighteenth interrogatory he saith:

I did not see them; I had no conversation with Mrs. Potter on that day, or if I had I do not now recollect it.

To the nineteenth interrogatory he saith:

I did not go or return, and know nothing of the matters inquired of.

To the twentieth interrogatory he saith:

I am a resident of the town of Wilmington, North Carolina, and well acquainted with Samuel R. Potter and Mauger London; they are and have been associates and friends; I do not know that they have been very intimate; I think they have been more intimate since the relation of attorney and client has existed between them.

To the twenty-first interrogatory he saith:

I do not recollect when Mauger London was married; I think about eight or nine years ago; he was married to Miss Rachel Tray, daughter of Alexander Tray, esquire, late of Columbus county, North Carolina.

To the twenty-second interrogatory he saith:

I believe it was generally understood and believed that he was thus embarrassed at that time.

To the twenty-third interrogatory he saith:

I do not know what sum he could have borrowed at that time with surety; I have no doubt several persons in the town of Wilmington would at that time loaned him $1,000 without requiring security.

To the twenty-fourth interrogatory he saith:

I do not know that his credit has increased to any great extent, if at all; his property has not increased much since his marriage; it was not understood and believed that he got a fortune by his marriage; I do not know how much, but the property he received by his marriage was small; I do not know, nor have I heard what his indebtedness was in June, 1847.

To the twenty-fifth interrogatory he saith:

A proposition was made to me by S. B. Everett and Samuel R. Potter, to unite with them in such a purchase from the widow; I cannot recollect the conversation.

To the twenty-sixth interrogatory he saith:

I do know the Point Peter lands, but I do not know the value of the crops made thereon since the death of Capt. Potter or before; the crops were received and sold by Samuel R. Potter; I mean the crops of 1847 and 1848.

To the twenty-seventh interrogatory he saith:

I have not seen the inventory, and if I had I could not give the desired information concerning the notes mentioned.

To the twenty-eighth interrogatory he saith:

I do not know the names or the value of the slaves in the possession of S. B. Everett, John P. Brown, or Nicholas Tally. I have not seen the inventory, and if I had, I am not sufficiently acquainted with the slaves to place a value on them.

To the twenty-ninth interrogatory he saith:

I do not know the value of the furniture; the furniture in Capt. Potter's house was very costly and valuable; I do not know the value of the slaves alluded to; I think about twelve or fifteen were divided; as I have already stated, they were all valuable except three, as well as I recollect.

To the thirtieth interrogatory he saith:

I do not recollect to have heard him say; I do not recollect that any proposition of the kind was made to him.

To the thirty-first interrogatory he saith:

I am a practising attorney in the courts of Wilmington, and have been for the last seventeen years.

To the thirty-second interrogatory he saith:

I have heard much said both by the plaintiff and defendants, but not in the presence of each other.

DAN'L B. BAKER.

JAS. T. MILLER, *J. P.*
D. MACMILLAN, *J. P.*

Answers of Daniel B. Baker to the cross interrogatories propounded to him by the defendants in the case of Elizabeth E. Potter against Samuel R. Potter and Mauger London, in the circuit court of the United States, for the district of North Carolina.

To the first cross interrogatory he saith:

I do know the parties to this suit; I do know the wife of the defendant, Samuel R. Potter; she is the grand-daughter of the plaintiff; I do not recollect how long since the plaintiff married her late husband, Samuel Potter, deceased; she lived, during her marriage, at Smithville and Wilmington, North Carolina.

To the second cross interrogatory he saith:

I am satisfied that the crops made on the Point Peter plantation were made through the skill and management of the defendant, Samuel R. Potter, and I do not know an overseer who could or would have succeeded as well in making crops; he has a high reputation as a skilful planter.

To the third cross interrogatory he saith:

I do not know what her interest is worth; I have made no estimate or calculation on the subject.

To the fourth cross interrogatory he saith:

I would have considered it safe, during the year 1846 and 1847, to loan Mr. London $1,000 without security, and I would have loaned him that sum.

To the fifth cross interrogatory he saith:

Samuel R. Potter called on me and wished to employ me as counsel

for him in the management of his father's estate; I declined to appear as counsel; told him my son was interested in the estate; and I preferred having nothing to do in the management of the estate; he, the defendant, Samuel R. Potter, then said he would employ another gentleman of the bar, naming him; I requested him not to employ that gentleman, but to employ Mauger London; Samuel R. Potter did not seem inclined to do so, and appeared to doubt Mr. London's competency to advise him properly in the management of the estate; I assured him that I considered him perfectly competent, and I recollect remarking to him, to induce him to employ Mr. London, that I would be responsible for any mistakes he made; Samuel R. Potter then, evidently with some reluctance and distrust, consented to employ Mauger London.

To the sixth cross interrogatory he saith:

I have heard Capt. Potter, the husband of the plaintiff, and all his children, and the husbands of his daughters, say that she, the plaintiff, was a woman of very bad disposition and temper; from what I have heard from them she was "self-willed and dictatorial," and much worse than that; her late husband, Capt. Potter, had several confidential conversations with me, in which he complained most bitterly of her treatment to him; said his life was a misery to him, and made so by her conduct; he mentioned to me several acts of hers, which proved that she must have been a woman of bad heart and diabolical temper; in his conversation with me concerning her, on one occasion, if not oftener, he said to me, in a very solemn manner, that he had no doubt that nothing but a fear of the law prevented her from taking his life at night in his sleep; whenever I have been in her company, she appeared to be as amiable, kind, and pleasant as any woman I ever saw.

To the seventh cross interrogatory he saith:

I have heard her late husband, Captain Potter, and his children say so.

To the eighth cross interrogatory he saith:

I think she was not.

DANL. B. BAKER.

JAS. T. MILLER, *J. P.*
D. MACMILLAN, *J. P.*

UNITED STATES,
Eastern district of Pennsylvania, ss:

Be it remembered, that, on this fourteenth day of November, A. D. 1848, and on the succeeding days hereinafter mentioned, I, Jabez Burchard, a commissioner duly appointed by the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, did call and cause to come and personally be and appear before me, in the city of Philadelphia, in the said eastern district of Pennsylvania, certain witnesses hereinafter named, to testify, the truth to say, on the part and behalf of the plaintiff, in a certain suit or matter of

controversy now depending and undetermined in the circuit court of the United States, for the fifth circuit, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; and the said witnesses, having been by me first cautioned, and sworn, and affirmed to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, did thereupon severally depose and say as follows, to wit:

Joseph L. Kay, being about the age of 66 years, being duly sworn, deposes and says: I reside in the city of Philadelphia; I have resided here about 49 years; I am by occupation a mariner, and am now a revenue officer; I was formerly a shipmaster; I know Mrs. Elizabeth E. Potter, the plaintiff in this suit; she is my sister; she is the widow of Samuel Potter, late of Wilmington, North Carolina; I have always lived on terms of intimacy with Mrs. Potter; I am well acquainted with her habits of intercourse with her family, and her feelings towards them; she has frequently been at my house with her children and grand-children; she has always lived on good terms with them; no woman more so; I know of no more affectionate mother than she has always been to her children; I never knew her to make a distinction between them; she was alike affectionate to her children and grand-children; I know of no ill-will that she entertains towards them at present; I never knew her at any time to entertain any ill-will against her children or grand-children; she has 5 children living; their names are Maria, Sarah, Joseph, Elizabeth, and Emma; they are all married except Elizabeth, who is a widow, (Mrs. Babcock;) Maria is married to Benjamin Ashburner; Mr. Ashburner is a clerk in one of the insurance offices; he has a large family; several children to support; Joseph is a commission merchant; I think is doing rather a small business; he failed a few years ago, to the best of my knowledge; he is married, and has a family of three children to support; Mrs. Babcock is poor; she must be assisted by her friends; she has one small property which brings her about $100 a year; this is the only support she has, except what she must get from her friends; Sarah is married to William F. Fotterall; he is reputed to be rich; Emma is married to Thomas Allibone; Thomas Allibone is considered rich; Mrs. Potter's health is rather delicate than otherwise; I have frequently heard her complain; she has sometimes been compelled to go to bed, when visiting my house, from indisposition; Mrs. Potter is an uncomplaining woman; I do not think that Mrs. Potter is competent, generally, to transact business; she has never had anything to do with business, and is as incompetent as any woman I ever knew who has been well brought up; she was executrix to her first husband's estate; myself, Thomas Redman, and John Ashburner, were executors with her; from my intercourse with her in the management of that estate, I do not regard her as competent to transact business; she did nothing in the management of that estate, but left the management of it to me; she never attempted to give an opinion about the management of it, except in one instance, in the sale of the old homestead farm, when she prevented me

from selling it at a fair price; it was afterwards sold at a greatly reduced price. My sister is very easily excited—I mean easily worried and confused—so much so that I have frequently seen her when she was not capable of her consent or dissent to any transaction; when in this state, I think she would be likely to yield to any thing to get clear of it, and to avoid any controversy about it. Her daughter, Mrs. Babcock, is subject to insanity; she has been twice confined in the Frankford (Pennsylvania) insane asylum. My mother was insane for ten or twelve years. I cannot say to what extent it may be considered hereditary. Mrs. Potter and myself are the only surviving children of our parents; my parents were Joseph and Judith Kay, of Gloucester county, New Jersey. Mrs. Potter has resided with her children in Philadelphia, ever since shortly after the death of her husband, Mr. Potter. Mrs. Potter has no other property, except that which she is entitled to receive from her late husband, Samuel Potter's estate. Mrs. Potter must be about 69 years of age; she is about three years older than I am; I was 66 years old last August. My sister has had to borrow money on two different times since her return from North Carolina; I believe that she was in needy circumstances, from her borrowing the money. Samuel R. Potter, one of the defendants in this suit, married Marian Fotterall, a daughter of William F. Fotterall of this city; she is the grand-daughter of the late Stephen E. Fotterall of this city. Stephen E. Fotterall is reputed to have left about $300,000; I have heard in the Fotterall family, that Stephen E. Fotterall left the bulk of his fortune to his grand-children. Marian Potter, [who] is the wife of Samuel R. Potter, one of the defendants, is one of those grand-children. My residence is 123 Lombard street, in the city of Philadelphia; I have no interest in this suit.

J. L. KAY.

Taken, sworn, and subscribed, this 14th day of November, 1848, before me.

J. BURCHARD,
U. S. commiss'r.

Eliza C. Crowley being affirmed, deposes and says:

I am a widow; I reside at 17 in south 3d street, city of Philadelphia. I know Mrs. Elizabeth E. Potter, the plaintiff in this suit; I have known her 42 years; I know her family also; I know them all. She has always lived on terms of peace and affection with the family, and with her relations generally. She is a remarkably kind and affectionate woman; my first husband was her brother. Mrs. Potter's mind has been weak for some time; it is peculiar to Mrs. Potter and several of her family; some of them have been deranged. I think it is a disease in the family; her mother was insane for many years; Mrs. Potter has a daughter (Elizabeth Babcock) who is at times insane. I do not think Mrs. Potter capable of transacting business; she has not been capable for a long time, I think not for five or six years; she never was a business woman; she was always remarkably diffident. From my know-

ledge of Mrs. Potter, I do not think her capable to transact business of any importance without advice. I think that Mrs. Potter might be very easily imposed upon and terrified by threats, for want of understanding. I say so because I know her well, and know she is weak both in mind and body; I do not think Mrs. Potter could bear much excitement. I saw her about a week after her return from North Carolina; this was last August a year; she then had been very sick, and was very feeble indeed; she was much changed in appearance for the worse. I have heard that Mrs. Potter has been suffering for many years with a rupture. I think her bodily diseases, as well as the other causes I have referred to, have affected her mind; I think her mind has been quite weak for these last ten years, and not capable of transacting business. Mrs. Potter is the daughter of Joseph and Judith Kay, of Gloucester county, New Jersey; they were also the parents of my first husband; I have no interest in this suit whatever; I am entirely disinterested.

E. C. CROWLEY.

Taken, affirmed, and subscribed before me, the 15th Nov., 1848.

J. BURCHARD,
U. S. commiss'r.

Josephine Kay McCammon being affirmed, deposes and says:

I am the wife of David C. McCammon, of the city of Philadelphia; I reside at No. 123 Lombard street, Philadelphia. I know Mrs. Elizabeth E. Potter, the plaintiff in this suit; I have known her thirty years at least. I am not related to Mrs. Potter. I know Mrs. Potter's family, her children and grand-children; I know them well. I know that Mrs. Potter lives on terms of great affection and kindness with her family, both children and grand-children. She is naturally a very kind and considerate mother; she lives with her children; lately she has been living with her son Joseph K. Eyre; she is at present with her daughter Mrs. Ashburner. She has been living with all her children, since her return from North Carolina, except Mrs. Fotterall. Mrs. Potter is of quite feeble health; she has not been in good health for years; she has been subject to some inward weakness for many years; I think her mind is weak constitutionally, and think it aggravated by this inward weakness. I have heard her complain of a pain in the head; I have known her head to be very much affected; she could not bear any noise. She has frequently, when at my house, requested to be left alone, and allowed to go to her room alone. I do not think Mrs. Potter capable of transacting business; her nerves are very easily affected, and very easily excited, though amiably so; I do not mean angrily so; both before and since her return from North Carolina, I do not think her capable of transacting business. I think her state of health, of body and mind, has rendered her incompetent for business. When Mrs. Potter resided in North Carolina, she was accustomed to visit her children in Philadelphia; she generally spent the summer with them. Mrs. Potter has five children, four daughters and one son; some of these are in good

circumstances, and some of them more or less needy; she has 26 or 27 grand-children, and six great-great-children, and she is very fond of them all, children, grand, and great-grand-children. I never knew her to make a distinction between any of her children, grand, or great-grand-children. I first saw Mrs. Potter, after her return from North Carolina, about two weeks; this was in the month of August or September, 1847. I then heard her complain of being very unwell, and of having been very unwell. She looked very badly; she was very much altered for the worse; she has been feeble in health ever since. I know Mrs. Marian Potter, the wife of Samuel R. Potter, one of the defendants in this suit; she is the grand-daughter of Stephen E. Fotterall, deceased, late of this city. I have always understood that Mrs. Marian Potter was entitled to a fortune from her grandfather's estate. Some of Mrs. Potter's children are in feeble health; one of them, Mrs. Babcock, is so in both body and mind; they have had sometimes to restrain her in consequence of her insanity. She, Mrs. Babcock, is in poor circumstances, and so is Mrs. Ashburner. I am not interested in this suit, not at all.

JOSEPHINE KAY McCAMMON.

Taken, affirmed, and subscribed, this 15th day of November, 1848, before me.

J. BURCHARD,
U. S. commissioner.

Hannah B. Drummond being affirmed, deposes and says:

I am a widow; I reside at No. 176, south 3d [street,] Philadelphia; I know Mrs. Elizabeth E. Potter, the plaintiff in this suit; I have been acquainted with her for 40 years at least; I am intimately acquainted with her, and have been for that time; I can't exactly say how many times I have seen her since her return from North Carolina to reside in Philadelphia, perhaps 7 or 8 times; Mrs. Potter is in very feeble health, both in mind and body; in conversation, she frequently changes the subject without any apparent cause; she frequently speaks from one thing to another without any connexion; sometimes she appears to be in trouble, and quite lost in thought; I know that she is suffering from a rupture of long standing; she suffered from this long before her marriage with Mr. Potter; I think that this disease has affected her mind; I think, besides this, her mind is naturally weak; I think it hereditary. She gets more feeble as she grows older; she has very much changed within the last three years. Mrs. Potter is not capable of transacting business; from my knowledge of business myself, I know she is not. When I first saw Mrs. Potter, after the death of her husband, she appeared to be weak both in body and mind; I saw her some time in September; she arrived in August, 1847; I know all of Mrs. Potter's children intimately; Mrs. Potter lives on terms of very great affection with her children; she is a very kind, affectionate mother; she has no disagreement with any of her children that I ever knew of; she does

not visit her daughter, Mrs. Fotterall, but it is not from any unkind feelings towards her. Mrs. Potter has twenty-seven grand-children, and six great-grand-children; some of her children are well married, and others are not well off; her daughter, Mrs. Babcock, is principally dependant on her friends for support; she is in very delicate health, both in body and mind; she is subject to insanity; Mrs. Babcock has one daughter, about 18 or 19 years old; her name is Maria Louisa; Mrs. Potter is about 69 or 70 years of age. Mrs. Potter returned to reside in Philadelphia in August, 1847; she came to live permanently with her children; her children all reside in Philadelphia county and city; Mrs. Potter has five children; their names are Maria Ashburner, Sarah K. Fotterall, Elizabeth Babcock, Joseph K. Eyre, and Emma L. Allibone; they all have children; Mrs. Potter has no other property but what she is entitled to from her husband, Mr. Potter's estate. Mrs. Potter is a very nervous, excitable woman; I think she could be easily alarmed or terrified by threats, very easily; I think she could be easily imposed on; I think her troubles, and bodily and mental health, render her susceptible of imposition; I am not related to Mrs. Potter; I have no interest in this suit, not the least.

H. B. DRUMMOND.

Taken, affirmed, and subscribed, this 15th day of November, 1848, before me.

J. BURCHARD,
U. S. commissioner.

Joseph K. Eyre being sworn, deposes and says:

I reside in the city of Philadelphia, corner of Centre and 13th streets; I am the son of Mrs. Elizabeth E. Potter, the plaintiff in this suit; I am about 39 years old; my business is a commission merchant and merchandise broker; I went from Philadelphia to North Carolina to bring my mother to reside in Philadelphia; this was on the 4th of August, 1847; I went at the request of my mother; I arrived at Wilmington, North Carolina, on the 6th of August, Friday; I went the same afternoon to Smithville; my mother had written several times previous, but delicate health and business engagements [prevented] me from going sooner; I found my mother at the house of her late husband, (Mr. Potter,) in Smithville. Shortly after I arrived there, Samuel R. Potter, one of the defendants in this suit, came in; he and his family were staying there; I had then been informed of a transfer said to have been made by my mother to Samuel R. Potter, of the property to which she was entitled from her husband, Mr. Potter's estate; Samuel R. Potter treated me very roughly on this occasion; after my mother and his wife left the room, I spoke to him about the transfer said to have been made by my mother to him, of the property to which she was entitled; in a very rough manner, he asked me to walk out of doors, and if I had any thing to say to him, he would then talk to me; and asked me how I dare come to that house and ask him about any arrangement that he might make with my mother about his father's property; he

said it was none of my business, and that it did not concern me; I replied to him, that he would excuse me from going out, as it was then raining, and exceedingly unpleasant; but I am her only son, and since the decease of her late husband, her protector, and therefore privileged to speak to him, or any other person as to any business connected with her. I then asked him to cancel those papers said to have been signed by my mother; he refused, and said he had allowed my mother enough to live on in the arrangement he had made; he acknowledged to me, and said that my mother had asked him to cancel the papers said to have been signed by her, and that he had agreed to cancel them, provided William F. Fotterall, of Philadelphia, his father-in-law, would say so; but that he had written to Mr. Fotterall, and Mr. Fotterall's reply was, not to do it; Mauger London, the other defendant in this suit, was then in Smithville; he was very anxious that I should see London, who, he said, had drawn up the papers for him. I refused to see London; my mother was not present during this conversation; Mrs. Marian Potter, the wife of the defendant Potter, was present principal part of the time; he also said that the money was his father's money, and that he was best entitled to it; I then said, that on reflection I hoped he would restore my mother to her just and legal rights; I do not recollect that he made any reply to this. I left Smithville the next morning for Wilmington, and brought my mother with me; we met Mauger London on the steamboat going to Wilmington. I thought he made several efforts to get into conversation with me; he would frequently pass in my way at various parts of the boat, as though he wished to have an opportunity of speaking to me, but I avoided him; I think he did not attempt to speak to my mother on board the boat; my mother and I stopped one day at Wilmington, and then came on to Philadelphia, and arrived on the 10th day of August, eighteen hundred and forty-seven; on my arrival at Smithville, I found my mother very much altered, particularly in bodily health, from what it was the year previous; she looked unwell and dejected, very much so; her general health is not good, nor has not been for many years; particularly for the last four or five; my mother suffers from a hernia or rupture of many years standing; I think the health of her body, as well as her advanced age, has materially affected her mind; her mind is naturally very weak; her mother, (my grandmother,) I have always understood, was insane; and I have a sister (Mrs. Babcock) who is at times Insane; she has been twice confined in the Friends' Asylum for the insane, in this State; my mother is incompetent, and, in my opinion, has always been incompetent to transact business, and could, I think, be easily imposed on by an artful and designing man in business matters; my mother is about 69 or 70 years of age; she has five children living, four daughters and myself; their names are Maria Ashburner, Mrs. Sarah K. Fotterall, Mrs. Elizabeth Babcock, Mrs. Emma L. Allibone, and myself; Mrs. Allibone is younger than I am; the others are all older; I have three children, the oldest of which is 5 years old, the next three, and the youngest one year old; my mother

has numerous grand-children, grand-children by every child, and several great grand-children; she lives peaceably and affectionately with them all; she is and always has been a most affectionate mother, none more so; she never has had any preference for one child over another, at least she has never manifested it; she has always sympathised with the unfortunate among us. My sister, Mrs. Babcock, is in indigent circumstances. My sister, Mrs. Ashburner, is married to Benjamin Ashburner; he is a clerk in an insurance office; they have a large family to support, his salary is small; Mrs. Fotterall and Mrs. Allibone are married to gentlemen who are supposed to be well off; Mr. Fotterall is reputed to be rich. I do a very small business as a commission merchant and broker, and am entirely dependent on my business for my support; my mother has no other property but that which she is entitled to from her late husband's estate; my mother came to Philadelphia with the intention of residing permanently; she has resided here ever since she came on with me in August, 1847; she intends to reside permanently in Philadelphia; her children all reside in Philadelphia city and county, and she lives with her children, except with Mrs. Fotterall; Mrs. Marian Potter, the wife of the defendant Potter, is the daughter of William F. Fotterall of this city; William F. Fotterall is the son of Stephen E. Fotterall, deceased, late of this city, who died in 1839; he left a very large estate, and from my knowledge of his property, I should think he left an estate worth at least three hundred thousand dollars, perhaps four or five hundred thousand; he left the bulk of his property to his grand-children, children of Stephen G. and William Fotterall, who were his only children; Mrs. Marian Potter is the oldest of these grand-children; Stephen E. Fotterall, her grandfather, made her a present of a property on Nice Town lane, in this county, in his lifetime, besides what he gave her by his will; the three children named Babcock, mentioned in Stephen E. Fotterall's will, are not the children of my sister, Mrs. Babcock, but are the children of Major Babcock's first wife, who was the daughter of Stephen E. Fotterall's wife. I have no interest in this suit whatever.

JOSEPH K. EYRE.

Taken, affirmed, and subscribed, this 15th day of November, 1848, before me.

J. BURCHARD,
U. S. Commissioner.

Emma L. Allibone, being affirmed, deposes and says: I am the wife of Mr. Thomas Allibone; I reside in Hamilton village, in the county of Philadelphia; Mr. Allibone is a general commission merchant; my age is 36; I am the daughter of Mrs. Elizabeth E. Potter, the plaintiff in this suit; my mother has five children; their names are Maria, Elizabeth, Sarah, Joseph, and myself; I am the youngest of my mother's children; I have eight children; my sister, Mrs. Ashburner, has nine children; my sister, Mrs. Fotterall, has six; and Mrs. Babcock has one; my brother Joseph has three children; my sister, Mrs. Babcock, is in

bad health, both in body and mind; she is in needy circumstances; her daughter's name is Maria Louisa Babcock; she is about 19 or 20 years of age; my mother's health is bad; she is suffering from an internal disease which renders her very weak; and I think when my mother is laboring under those attacks of violent pain, that they incapacitate her entirely for business; I do not think that my mother, even in her best health, is capable of transacting business; my mother lives in peace with her family; she is affectionate in her intercourse with her family, and very disinterested; if my mother has any particular sympathies, they are with the unfortunate of us; my brother Joseph is not well off; Mrs. Ashburner's husband is a clerk in an insurance office; he has a large family to support; my mother resides with her children, except Mrs. Fotterall; she has been in feeble health ever since her return from North Carolina; she has been frequently subject to these attacks since her return; my mother has no other property than what she is entitled to from her husband's estate; my mother has resided with us, in Philadelphia city and county, since August, 1847; my mother has great-grand-children as well as grand-children; my mother is nearly seventy years of age; my own health is not good, and has not been for some time. Neither I nor my husband has any interest in this suit whatever.

EMMA LOUISA ALLIBONE.

Taken, affirmed, and subscribed this 16th day of November, 1848, before me.

J. BURCHARD,
United States Commissioner.

Maria Ashburner, being affirmed, deposes and says: I reside in Hamilton village, in the county of Philadelphia; I am the wife of Benjamin Ashburner, of the same city and county; I know the plaintiff in this suit, Mrs. Elizabeth E. Potter; she is my mother; my age is 47; I am the oldest child of my mother; my mother is residing with her children; she was with me until yesterday, but is now at Mrs. Babcock's; she [has] no home of her own, and is entirely dependent on her children; she has been residing with her children in this city and county ever since she returned from North Carolina; she came to reside with them last August was a year; Philadelphia is her permanent residence; my mother is near seventy years of age; my mother has had seven children, five of them are living; their names are Maria Ashburner, Sarah K. Fotterall, Elizabeth Babcock, Joseph K. Eyre, and Emma L. Allibone, *and myself*; my mother is on terms of affection and intimacy with her family; she has resided with them all except Mrs. Fotterall since she came to Philadelphia; she has not been to Mrs. Fotterall's because of Mr. Fotterall's refusal to advise Samuel R. Potter, one of the defendants in this suit, to cancel the papers said to have been signed by my mother; my mother has 27 grand-children; they are all living; she is on terms of affection with them; her oldest

grand-child is Algernon Eyre Ashburner, my son; he is 26 years of age; her youngest grand-child is Mary W. Allibone, she is six months old; my mother has also six great-grand-children, two of these are the children of Mrs. Marian Potter, and four of them are the children of my children; these great-grand-children vary in age from six months to four years; my husband is a clerk in the American Insurance office; I have nine children; my husband was unfortunate in business some years ago; since that time he has been in no permanent business; he has now a small salary, which is barely sufficient to support us and five of our children, who are entirely dependent on him. My brother, Joseph K. Eyre, has three children; he was formerly unfortunate in business; he is dependent on his business for a livelihood; he makes a living with much difficulty; I infer this from the trouble I have seen him in at times; his children are all young, the oldest is not more than five years old. Mrs. Fotterall has six children, the oldest of whom is Mrs. Marian Potter, the wife of Samuel R. Potter, the defendant in this suit. Mr. Fotterall is reputed to be rich; his children are the legatees and devisees of Stephen E. Fotterall, deceased, their grandfather; his estate is said to be large. Mrs. Fotterall, their grandmother, the wife of Stephen E. Fotterall, died four or five years ago. It is said that these children, when the estate is distributed, will be very rich. My sister, Mrs. Allibone, has eight children; her husband is a general commission merchant. My sister, Mrs. Babcock, has only one child; she is poorly off, and receives assistance from her friends; Mrs. Babcock I should think is 42 or 43 years of age; her health is very bad; her health of body is bad; she is also subject to insanity; she is much affected by depression of spirits, and she is very excitable also; about ten years ago she was confined to the Friend's Asylum for the Insane, near Frankford; she was twice there; she remained there a year and a half or two years; she is now subject to attacks of aberration of mind; she sometimes requires the attendance of a person. My grandmother, my mother's mother, was also subject to insanity; it was also necessary to restrain her at times, and generally to have an attendant with her; my mother is also subject to occasional or accidental —— of mind; I think it is caused by her bodily health, and constitutionally so; from these facts and circumstances I think my sister Mrs. Babcock's insanity is inherited; my mother's bodily health is bad; she is now subject, and has been subject for many years, to hernia or rupture, which disease causes her great pain, very great; I have frequently seen her suffering from these attacks; I know the intensity of her suffering; she was subject to these attacks before she went to North Carolina, and also since her return. I think her sufferings have been greater as she has grown older. She is also subject, at times, to great nervous excitability; we frequently find it necessary to keep her quiet and calm; the noise of children disturbs her, or excitement of any kind; she cannot bear exciting conversation; she is very much excited by good news and depressed by bad news. I frequently heard her express anxiety for such of her children as have been unfortunate, particularly for Mrs. Babcock, in consequence of her

infirmities, and all others of her children who have been unfortunate. I do not think my mother is capable of transacting business, and I think she is nervous; she has never been accustomed to the transaction of business; I think she is totally unfit for it, by weakness and habit of mind.

I think my mother could be very easily imposed on; I think she could be easily terrified or alarmed; she has no other property than that she is entitled to from her late husband, Mr. Potter's estate; she has no other support or maintenance but that which is given to her by her friends. My mother is sister to Mr. Potter's second wife; my mother was married to Mr. Potter eleven years ago; she went to reside with her husband in North Carolina a few weeks after marriage; she resided in North Carolina until after the death of her husband, and came to reside in Philadelphia in August, 1847. My mother's parents were Joseph and Judith Kay; Mrs. Marian Potter, the wife of Samuel R. Potter, is the grand-daughter of Stephen E. Fotterall, deceased; my sister, Mrs. Babcock's daughter's name is Maria Louisa Babcock; Elizabeth, Catherine, and Samuel Babcock, mentioned in the will of Stephen E. Fotterall, deceased, are not the children of my sister, Mrs. Babcock; they are the children of Major Babcock, by his former wife; she was a step-daughter of Stephen E. Fotterall, deceased; Major Babcock is dead many years ago. Neither I nor my *mother* have any interest in this suit.

MARIA ASHBURNER.

Taken, affirmed, and subscribed this 17th day of November, 1848, before me.

J. BURCHARD,
U. S. Commissioner.

Ann K. Worrell, being affirmed, deposes and says: I am a widow; I reside at No. 66 South Sixth, in the city of Philadelphia; I am sixty-nine years of age; I have resided in Philadelphia more than 50 years; I know Mrs. Elizabeth E. Potter, the plaintiff in this suit; I have known her from childhood; I am well acquainted with her; I have seen her frequently since her return from North Carolina; she returned to Philadelphia, as near as I can recollect, last August was a year. Mrs. Potter is now living with her children, except Mrs. Fotterall; Mrs. Potter is on very good terms, and always has been, with her children; she is very affectionate in her intercourse with them; she has five children living; she has also a number of grand-children and great-grand-children. I have never heard of any disagreements between her and any of her children; the names of the children are Maria Ashburner, Sarah K. Fotterall, Elizabeth Babcock, Joseph K. Eyre, and Emma L. Allibone. Some of her children are well off: I mean, are well married; some are not so well off; Mrs. Babcock's means are limited, small; I don't think that Joseph K. Eyre's circumstances are as good as they formerly were; he was unfortunate in business. Mrs. Ashburner is the wife of Benjamin Ashburner; Mr. Ashburner was unfortunate in business some years ago; Mrs. Fotterall and Mrs. Allibone are married to

gentlemen in easy circumstances. Mrs. Potter's health is bad; she is, I know, suffering from hernia; she has suffered from it many years; she is also subject to dizziness, head-aches, &c.; when she had any thing that disturbed her mind, she was very singular; she talked too much. She has sometimes said to me, cousin Ann, do you feel as I do? I can hardly talk, I am so worried; I shall have to go and sit alone. She has said this when any thing would disturb her in the least; she is nearly sixty-five or seventy years of age, to my certain knowledge; we were children together; we are cousins; Mrs. Potter is a feeble woman; from what I know of her feebleness of mind and body, I do not think her competent to transact business; she is certainly incompetent to transact business. Mrs. Babcock, her daughter, is in feeble health in body and mind; she is subject to insanity. Mrs. Potter's mother was insane 20 or 30 years; I knew her very well; many of her children were born at a time when she was not well. I have not any interest in this suit.

ANN WORRELL.

Taken, affirmed, and subscribed this 17th day of November, 1828, before me.

J. BURCHARD,
U. S. Commissioner.

Sarah Crap, being affirmed, deposes and says: I am the wife of George M. Crap, of the city of Philadelphia; I reside with my husband at No. 134, German street; I know Mrs. Elizabeth E. Potter, the plaintiff in this suit; I formerly lived with her; I was in her employment; I lived with her about 14 years; I am 52 years of age; it is nearly thirty years since I lived with her; I have known her ever since; I have been accustomed to see her during her residence in Philadelphia; I have seen her more or less frequently during the last year or more, and since her return from North Carolina; I know her children and family; she was affectionate to her children, and to all that lived with her, when I was with her; she still maintains, to the best of my knowledge, kindly relations to her family; she is naturally an affectionate woman; her health is delicate, I know very much so; I think that her health is more delicate now than when I resided with her; at times she seems sprightly, and other times she appears very feeble; I know that she has been suffering from a disease for several years, of many years standing; this disease is a hernia, or rupture, which she had when I lived with her, more than 30 years ago; she is still subject to it; this complaint causes her great suffering; I know her children; she has five children; she has also grand-children and great-grand-children; I should think Mrs. Potter's age to be near 70 years; I nor my husband have any interest whatever in this suit.

SARAH CRAP.

Taken, affirmed, and subscribed, this 17th day of November, 1848, before me.

J. BURCHARD,
U. S. Commissioner.

Theophilus T. Derringer, being duly sworn, deposes and says: I am the deputy register of the city and county of Philadelphia; the copy of the will hereto annexed, marked (A), is a true copy of Stephen E. Fotterall's will, as the same remains on file and of record in the office of the register of wills for the city and county of Philadelphia; the name subscribed to the certification thereof is my own proper name, in my own proper handwriting, as deputy register aforesaid.

THEO. T. DERRINGER.

Taken, sworn, and subscribed, the 18th day of November, 1848, before me.

J. BURCHARD,
U. S. Commissioner.

Evans Rogers, being duly sworn, deposes and says: I reside in the city of Philadelphia, at the corner of Locust street and Washington square; I am one of the executors of Stephen E. Fotterall, deceased; he principally devised his estate to his grand-children, to the best of my knowledge; I should say the estate of Stephen E. Fotterall amounts to about two hundred and fifty thousand dollars ($250,000); it is nearly all real estate; his personal estate was very small; his estate is increasing in value; I suppose he has 12 grand-children now living; Mrs. Marian Potter, of Wilmington, North Carolina, is one of his grand-children; she is the daughter of William F. Fotterall, of this city; I have no interest in the suit in which Mrs. Elizabeth E. Potter, is plaintiff, and Samuel R. Potter and Mauger London are defendants.

Taken, sworn, and subscribed, this 18th day of November, 1848, before me.

J. BURCHARD,
U. S. Commissioner.

I do hereby certify that the reason for taking the foregoing depositions is, that the witnesses are material and necessary in the cause in the caption of the said depositions named, and that they are residents of the city of Philadelphia, and State of Pennsylvania, distant more than one hundred miles from the place of trial of said cause; and that no notice of the time and place of taking said depositions was given by me to the adverse party, or their attorney, because they were not, to my knowledge, residing within the distance of one hundred miles from the place of taking the same; and I further certify, that the foregoing depositions were reduced to writing by me in the presence of the said several witnesses as they were severally examined upon their statements, and upon their solemn oaths and affirmations, by me first duly administered; and that they subscribed the same in my presence. I have retained the said depositions in my possession, for the purpose of sealing up the same, and transmitting to the court for which they were taken. And I do further certify, that I am not of counsel nor attorney

for either of the parties in the said depositions and caption named, nor in any way interested in the event of the cause named in the caption.

In testimony whereof I have hereunto set my hand and seal, this (20th) twentieth day of November, in the year of our Lord one thousand eight hundred and forty-eight, and in the seventy-third year of the independence of the said United States.

JABEZ BURCHARD, [L. S.]

U. S. Commissioner for circuit court United States, for the eastern district of Pennsylvania.

UNITED STATES,

Eastern district of Pennsylvania, ss:

I certify, that Jabez Burchard, esquire, before whom the foregoing depositions were taken, and who has subscribed the accompanying certificate thereof, was at the time of taking said depositions and subscribing such certificate, and still is, a commissioner of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, duly appointed and qualified.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court, at Philadelphia, this twentieth day of November, A. D. 1848, and in the seventy-third year of the independence of the said United States.

[SEAL.]

GEORGE PLITT, *Clerk, C. C.*

A.

I, Stephen E. Fotterall, of Philadelphia, make this my last will.

I. I appoint my sons Stephen G. Fotterall and William F. Fotterall, and my friends Wm. J. Duane, Evans Rogers, and David Winebrenner, and their substitutes, as hereinafter described, to be the executors of this will, and trustees for the purposes hereinafter specified. I direct that there shall be at all times five persons acting as executors and trustees, and for that purpose I direct that, in case of the death, or renunciation, or removal from Pennsylvania of any existing executor and trustee, the other executors and trustees shall appoint a substitute by writing, to be filed in the register's office, in Philadelphia; and I direct every substitute to take the usual qualification and letters testamentary in said office, as if appointed by myself; and I grant to each substitute all the powers of an executor and trustee appointed by myself.

II. I give and bequeath to my wife Catharine, all my furniture and plate, absolutely; I give to her the use of my house No. 152, South Third street; and I give to her an annuity or sum of twenty-five hundred dollars per year, to be paid to her half-yearly for life by my executors, in full satisfaction of dower.

III. I give and bequeath to my five above named executors, and any substitutes appointed as above directed, the sum of ten thousand dollars, in trust for these uses and purposes: 1, to invest said sum and keep it invested, and also to reinvest the income thereof, until Catharine F.

Babcock shall have attained the age of twenty-five years: 2, but, if my wife shall die before the said Catharine shall have reached that age, my executors and trustees shall pay to the said Catharine the income of said sum half-yearly until she shall have reached that age: 3, and whenever the said Catharine shall have arrived at that age, my said executors and trustees, shall pay to her the sum of five thousand dollars, and shall pay to her thereafter half-yearly, the income of the remaining five thousand dollars and of any accumulation: 4, on the death of the said Catharine, my executors and trustees shall pay the remaining or last mentioned five thousand dollars and any accumulation, to any child or children of the said Catherine, her surviving, and to the issue of any that may have died, in equal parts; but the issue of any deceased child are to have among them equally the part only which the parent if living would have had.

IV. I give and bequeath to my five above named executors, and any substitutes appointed as above directed, the sum of ten thousand ($10,000) dollars in trust for these uses and purposes: 1, to invest said sum and keep it invested, and also to re-invest the income thereof, until Elizabeth F. Babcock shall have attained the age of twenty-five years: 2, but if my wife shall die before the said Elizabeth shall have attained that age, my executors and trustees shall pay to the said Elizabeth the income of said sum half-yearly, until she shall have reached that age: 3, and whenever the said Elizabeth shall have arrived at that age, my said executors and trustees shall pay to her the sum of five thousand dollars, and shall pay to her half-yearly the income of the remaining five thousand dollars, and of any accumulation: 4, on the death of the said Elizabeth, my executors and trustees shall pay the remaining or last mentioned five thousand dollars, and any accumulation, to any child or children of the said Elizabeth, her surviving, and to the issue of any that may die, in equal parts; but the issue of any deceased child are to have among them equally the part only which the parent, if living, would have had.

V. I give and bequeath to my five above named executors, and any substitutes appointed as above directed, the sum of ten thousand, in trust for these uses and purposes: 1, to invest said sum, and keep it invested, and so apply the income thereof to the use and advancement of Samuel F. Babcock, until he shall have reached the age of twenty-five years: 2, and then in trust to pay the said sum and any income thereof to him: 3, if he shall die under the age of twenty-five years, leaving a child or children, said sum shall be paid to said issue in equal parts, if more than one.

VI. I give to my wife's sister, Hannah Emerich, and direct my executors to pay to her, an annuity or sum of two hundred dollars; one-half to be paid on the first day of January, and the other half on the first day of July, in every year during her life.

VII. I give to my wife's sister, Rebecca Mercier, and direct my executors to pay to her, an annuity or sum of two hundred dollars; one-

half to be paid on the first day of January, and the other half on the first day of July, in every year during her life.

VIII. Whereas I, some time since, purchased fifty-six acres and sixteen perches of land, with the appurtenances, late of Susannah Hilton, in the county of Philadelphia: I now I direct that no part thereof shall be sold, let on ground rent, or hypothecated prior to the first day of July, in the year one thousand eight hundred and sixty-five, but that until then the same shall be preserved from dilapidation and waste by my said executors and substituted executors; and whereas I have adopted and consider the above named Catharine, Elizabeth, and Samuel Babcock, as children of a grand-child, now subject to the above mentioned restriction, I give and devise the said land and appurtenances to my actual grand-children now born, or that may be born prior to said July 1st, 1865; and to the said Catharine, Elizabeth, and Samuel, as one grand-child's representatives, that is, they are to have among them a grand-child's share as tenants in common, and to their respective heirs and assigns as tenants in common forever; but if any of my actual grand-children shall die without issue prior to July 1st, 1865, his or her part is to pass to my other actual grand-children, and the issue of any that may have died, as tenants in common forever; the issue of any deceased actual grand-child taking only the parent's share equally among them; but if any of the said adopted great-grand-children shall die without issue prior to July 1st, 1865, the part of said land intended for him or her shall pass, and I give and devise the same to my own right heirs.

IX. All the rest and residue of my real and personal estate I give and devise to the said Stephen G. Fotterall, Wm. F. Fotterall, Wm. J. Duane, Evans Rogers, and David Winebrenner, my executors, and to such persons as may be appointed as *as* I have directed as substitutes, and to their heirs and assigns forever; in trust, nevertheless, to and for the uses and purposes following, namely: 1. To keep the real estate rented and the personal estate invested, and after paying the annuities heretofore given, to apply the surplus income to the improvement of my real estate, other than the fifty-six acres and sixteen perches above mentioned, or in an investment in personal estate, as securities as a majority of my executors may think best. 2. In trust, after the expiration of twenty years next after the decease of my wife and myself, to convey the said residuary real estate in fee, and to deliver over the personal estate then in hand to the children and the issue of my deceased children or child of my said sons, Stephen G. Fotterall and Wm. F. Fotterall, among them, share and share alike; the issue of any deceased child, however, to have equally among them, if more than one, the share only which the parent would have had if living; and I give and devise the said real and personal estate accordingly to my said grand-children and their issue, and heirs as aforesaid, and their assigns forever, subject to the suspension or lapse of the twenty years aforesaid. It is my peremptory direction, however, that no person in any way whatever connected with any of my grand-children on the

maternal side, shall directly or indirectly have any concern, control, or agency whatever in relation to the property I leave to my grand-children; and if any of my grand-children shall disregard this restriction, he or she disregarding it shall forfeit his or her interest, estate, and right under this will; and the part forfeited shall pass, and I give and devise the same, to those grand-children who may respect my wishes.

STEP. E. FOTTERALL.

Signed and declared as and for his last will by Stephen E. Fotterall, in our presence and the presence of each of us, July 2d, 1839; the words in the 11th and 12th lines of this page of this duplicate, the issue of any deceased actual grand-child, first erased.

MORGAN CARR,
JAMES M. CARR.

COMMONWEALTH OF PENNSYLVANIA,
City and county of Philadelphia, ss:

REGISTER'S OFFICE, *November* 1*st*, 1839.

Then personally appeared Morgan Carr and James M. Carr, the subscribing witnesses to the foregoing will, and on their oaths did say that they were present, and did see and hear Stephen E. Fotterall, the testator therein named, sign, publish, and declare the same as and for his last will and testament; and that, at the doing thereof, he was of sound disposing mind, memory, and understanding, to the best of their knowledge and belief; and that they subscribed their names thereto as witnesses at the testator's request, in his presence and in the presence of each other.

MORGAN CARR,
JAMES M. CARR.

Sworn and subscribed before me the date above.

J. B. SEWALL,
Deputy register.

CITY AND COUNTY OF PHILADELPHIA, *sct:*

REGISTER'S OFFICE, *Nov.* 1*st*, 1839.

We do swear that, as the executors of the foregoing last will and testament of Stephen E. Fotterall, deceased, we will well and truly administer the goods and chattels, rights and credits, of said deceased agreeably to law; and that we will diligently and faithfully regard and well and truly comply with the provisions of the law relating to collateral inheritance.

S. G. FOTTERALL,
W. F. FOTTERALL,
W. J. DUANE,
EVAN ROGERS,
DAVID WINEBRENNER.

Sworn and subscribed before me the date above, and letters testamentary granted unto them.

J. B. SEWALL,
Dep. register.

CITY AND COUNTY OF PHILADELPHIA, *ss:*

I certify the foregoing writing to be a true copy of the last will and testament of Stephen E. Fotterall, dec'd, as also of the probate thereof, as the same remains on file and of record in the register's office, in will book No. 13, page 696, &c.

[L. S.]

Witness my hand and seal of office, this 14th day of Nov., A. D. 1848.

THEO. DERRINGER, *Dep. Reg.*

Testimony read at the hearing on the part of the defendants, to wit:

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States. In equity.

To James T. Miller and Dugald McMillan, esqrs.

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court, in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Benjamin F. Ruggles, touching and concerning what [he] may know in and about said controversy. And that you take such deposition in writing, and return the same, under your hand and seal, to the court aforesaid, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 9th day of October, A. D. 1848.

WM. H. HAYWOOD, *Clerk.*

Interrogatories to be propounded to Benjamin Ruggles.

Interrogatory 1st. Did you know the parties to this suit?

Interrogatory 2d. Were you with the late Samuel Potter during his last illness? If so, state how long you were there, and how often; state fully.

Interrogatory 3d. Did you, during your visits there, see much of the plaintiff; if so, did she watch much, or set up with the deceased at nights, or devote much time and attention to him; was she distressed or sick during his said illness, or exhibited any signs of grief at his death?

Interrogatory 4th. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue

in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

JOHN H. BRYAN,
Solicitor for defendants.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of the interrogatories filed for the defendants in the suit at issue in this court, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; to be propounded to Benjamin Ruggles, a witness for the defendants.

Given under my hand and seal of office, at office, this the 9th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

Cross interrogatories to be propounded to Benjamin Ruggles, a witness for the defendants:

Cross interrogatory 1st.

What was the matter with Capt. Potter, and how long did he linger after his attack, and before his death; and, from the time you first saw him, did he revive so as to be in his right mind?

Cross interrogatory 2d.

How do you judge whether the plaintiff was troubled in mind or not? Explain, by setting forth in your answer, all you saw, and what were the grounds of your opinion.

Cross interrogatory 3d.

Did the defendant, Samuel R. Potter, appear to be much distressed; and what signs of grief did he exhibit, to your observation, that Mrs. Potter did not show?

WILL. H. HAYWOOD, Jr.,
Solicitor for plaintiff.

THE UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of cross interrogatories exhibited and filed for the plaintiff in the suit at issue in this court, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; to be propounded to Benjamin Ruggles, a witness.

Given under my hand and seal of office, at office, this the 9th day of November, 1848. WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we, this day, the 14th of February, 1849, at the office of James T. Miller, in the town of Wilmington, proceeded to take the deposition of Benjamin Ruggles, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants. The said Benjamin Ruggles being first sworn on the holy evangelist of Almighty God, deposeth and saith as follows:

To the first interrogatory he answers as follows:

I do.

Interrogatory 2d.

I was there every day during his illness, and set up with him two nights.

Interrogatory 3d.

I saw her every day; she did not set up either of the nights I was there; did not exhibit any sign of distress that I saw, either during his sickness or at the time of his death; did not devote much of her time in attending to him; was not sick during the time; nor did she exhibit any signs of grief at his death.

Interrogatory 4th.

I know of nothing material to either of the parties.

Further deponent saith not.

BENJ. B. RUGGLES.

Cross interrogatories propounded to B. Ruggles.

Cross interrogatory 1st.

Answer. He had an attack of pneumonia; do not recollect the precise number of days he was sick; think about nine or ten days; he appeared to be in his right mind during the whole of his illness.

Cross interrogatory 2d.

Answer. During the illness of deceased, (Capt. Samuel Potter,) I did not think plaintiff much distressed, in consequence of her not paying as much attention to deceased as is usually done by persons similarly situated; also, the night her husband died, she attended to getting his burial clothes, and handed [them] to me at the door; during the whole of which time she appeared calm and composed.

Cross interrogatory 3d.

Answer. When Mr. Samuel Potter died, defendant, Samuel R. Potter, appeared much distressed; left the room and went to his own room; and I did not see him until some time after he was laid out; and, during his illness, Samuel R. Potter appeared much concerned; staying and attending to the deceased in person nearly all the time, day and night; choosing to wait on him himself; allowing no person ever to turn him in bed when he, defendant, could do it himself.

Further deponent saith not.

BENJ. B. RUGGLES.

At the time this deposition was taken, there was no person present but the commissioners and the witness.

D. MACMILLAN, *J. P.*
JAS. T. MILLER, *J. P.*

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity, to James T. Miller and Dugald Macmillan, esquires:

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court, in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Josephine Bishop, touching and concerning what she may know in and about said controversy; and that you take such deposition in writing, and return the same, under your hand and seal, to the court aforesaid, at chambers, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 9th day of October, A. D. 1848.

WM. H. HAYWOOD, *Clerk.*

Interrogatories to be propounded to Miss Josephine Bishop.

Interrogatory 1st.

Are you acquainted with the parties in this suit?

Interrogatory 2d.

Were you at the house of plaintiff after the death of her husband, Captain Samuel Potter; if so, how soon after that event were you there, and how long did you remain?

Interrogatory 3d.

Did you on the day you went there first after the death of the deceased, have any conversation with the plaintiff on the subject of her hushand's estate; did she make known any intention she had as to what she would do with her interest in the same? If so, state particularly what she said, and the time of day she made the declaration to you.

Interrogatory 4th.

Did plaintiff say she had proposed to make a disposition of her interest of her husband's estate to any one? If so, to whom.

Interrogatory 5th.

Did you hear plaintiff at any subsequent time state what disposition she had made of her interest in her husband's estate? If so, state what she said.

Interrogatory 6th.

Did plaintiff say any thing about defendant, London's, conduct on the occasion of arranging the business for her?

Interrogatory 7th.

Did you hear the plaintiff say with whom she was going to live, and when she said it?

Interrogatory 8th.

Were you much in the company of the plaintiff during the time you were at her house, and was she much distressed or otherwise?

Interrogatory 9th.

What was the health and spirits of the plaintiff during the time you were there?

Interrogatory 10th.

Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

JOHN H. BRYAN,
Solicitor for defendants.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of the interrogatories exhibited and filed by the defendants in the suit at issue in this court, wherein Elizabeth E. Potter is plaintiff, and Sam'l R. Potter and Mauger London are defendants; to be propounded to Josephine Bishop, a witness for the defendants.

Given under my hand and seal of office, at office, the 9th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

Cross interrogatories to be propounded to Josephine Bishop, a witness for defendants, on behalf of the plaintiff.

Cross interrogatory 1st.

How came it about that you went to the plaintiff's house at the time you mention; at whose instance and request was it, and who brought you the request, and in what character did you remain there?

Cross interrogatory 2d.

When you first got to the house where was the plaintiff, and in what part of the house; where was the defendant, Samuel R. Potter, and where was his wife?

Cross interrogatory 3d.

What conversation, if any, did you hear between the plaintiff and Samuel R. Potter about giving her a deed for her property, and when was it, and who else was present at the time?

Cross interrogatory 4th.

How long did you remain at Mrs. Potter's after her husband died;

what was Mrs. Potter's reasons for talking to you about her deeds and property: had you introduced the subject to her yourself, or how did it come up between you; and do you wish to be understood as saying that before the deed was made she told you how she intended to dispose of her property? Repeat as nearly as you can all she said, and all you said to her at that time; and if any one else was present, who was it.

Cross interrogatory 5th.

Did you know of Mauger London's being at Mrs. Potter's writing deeds, or doing any other business of that sort whilst you remained at Mrs. Potter's; did you go out of the room when he came to do the business; and if yea, who was in the room to which you retired; did you know of Mauger London's coming into the house by the back door, when he went to Mrs. Potter's or not?

WILL. H. HAYWOOD, Jr.,
Solicitor for plaintiff.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of cross interrogatories filed by the plaintiff in the suit at issue in this court—Elizabeth E. Potter against Samuel R. Potter and Mauger London, defendants; to be propounded to Josephine Bishop.

Given under my hand and seal of office, at office, this the 9th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we, this day, March 6th, 1849, at the residence of Henry Gilbert, in the town of Wilmington, proceeded to take the deposition of Josephine Bishop, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London, are defendants; the said Josephine Bishop, being first sworn on the holy evangelist of Almighty God, deposeth and sayeth as follows:

Interrogatory 1st.

Answer. I am.

Interrogatory 2d.

Answer. I was there on Saturday after his death, remained the day, and I returned there on Monday following, and remained there some three or four weeks.

Interrogatory 3d.

Answer. On Monday morning, after the death of Captain Potter, I got there about eight o'clock, and about nine o'clock, as well as I can recollect, had a conversation with Mrs. E. E. Potter, and she said that she intended to propose to Mr. Potter to make over all her right, title, and interest, in her husband's estate, to Mrs. Marian Potter, for the benefit of herself and her heirs.

Interrogatory 4th.

Answer. She did; to Mr. S. R. Potter.

Interrogatory 5th.

Answer. I did, some two or three weeks after the death of Captain Potter; Mrs. E. E. Potter came into the room where I was, appearing much delighted, and said that she had sent for Mr. London to arrange her business for her, and said that she felt much relieved, and was satisfied in the way he had arranged it for her; that she had conveyed her interest in her husband's estate to Samuel R. Potter, and that he was to give her two thousand dollars in cash, six hundred dollars a year during her life, furnish her board, and a servant; would have given her more if she had asked it; but she was satisfied with the amount given, saying it was as much as she would have use for.

Interrogatory 6th.

Answer. She did not; only always spoke of him in the highest terms.

Interrogatory 7th.

Answer. On Monday, after the death of Captain Potter, she told me she intended living with Mrs. Marian Potter as long as she lived, but would visit her children in Philadelphia occasionally.

Interrogatory 8th.

Answer. I was in her company every day during the time I was at her house; and, judging from her appearance, was not at all distressed.

Interrogatory 9th.

Answer. I heard no complaint of her health, and less than usual, having been in her company several times, and never seen her in better spirits.

Interrogatory 10th.

Answer. I know of nothing else, save some declarations of Mrs. E. E. Potter, in which she said, that she knew her interest in her husband's estate was worth a great deal more than she asked for it; yet, at the time of her marriage with Captain Potter, she had made over her property to her children, and she thought it nothing but right that his children should have the benefit of his property; besides, the most of Captain Potter's property consisted in slaves, and she would not own one for any consideration.

Cross interrogatory 1st.

Answer. I went there at the instance of Mrs. Marian Potter; received the request through her servant; remained there as mantuamaker.

Interrogatory 2d.

Answer. I was there on Saturday, and Mrs. E. E. Potter, Mr. S.

R. Potter and his lady, were all in the house—in Mrs. Marian Potter's chamber. Mr. S. R. Potter was alternately in the room and the parlor where the corpse was during the evening.

Interrogatory 3d.

Answer. I did not hear any conversation between the parties about the property.

Interrogatory 4th.

Answer. I remained there some three or four weeks. I know not what her reasons were; she introduced the subject herself, and told me she intended making over her interest in her husband's estate to Mrs. Marian Potter, and she intended making this proposition to Mr. Samuel R. Potter. This conversation took place Monday, after the death of Captain Potter; she asked me to advise her what to do. I told her I could not give her any advice, either one way or the other. I think Miss Julia Everitt was present; do not recollect distinctly.

Interrogatory 5th.

Answer. Except once, and that was through Mrs. E. E. Potter; I never saw him there myself.

Further the deponent saith not.

JOSEPHINE BISHOP.

D. MACMILLAN, *J. P.*
JAS. T. MILLER, *J. P.*

Defendants' interrogatories to Josephine Bishop filed 9th Oct., 1848.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity, to James T. Miller and Dugald McMillan, esquires:

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Margaret H. Wade, touching and concerning what she may know in and about said controversy; and that you take such deposition in writing, and return the same, under your hand and seal, to the court aforesaid, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 9th day of October, A. D. 1848.

WM. H. HAYWOOD, *Clerk.*

Interrogatories to be propounded to Mrs. Margaret H. Wade.

Interrogation 1st.

Are you acquainted with the parties in this suit?

Interrogatory 2d.

Were you with Captain Potter, deceased, the late husband of the plaintiff, during his last illness; if so, how often were you there, and how long did you remain?

Interrogatory 3d.

Did you, during your visit there, see much of the plaintiff; if so, was she distressed, grieved, or sick, either during the illness of the deceased or after his death; did she watch upon the deceased or set up at night with him? State fully.

Interrogatory 4th.

Did you have any conversation with the plaintiff, during the illness of deceased, relative to his then situation? If so, state what it was.

Interrogatory 5th.

Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

JOHN H. BRYAN.
Solicitor for defendants.

UNITED STATES OF AMERICA,
North Carolina district, circuit court, fifth circuit.

In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of the interrogatories exhibited and filed by the defendants in the suit at issue in this court, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; to be propounded to Margaret H. Wade, a witness for the defendants.

Given under my hand and seal of office, at office, this 9th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we, this day, the 15th of February, 1849, at the residence of M. H. Wade, in the town of Wilmington, proceeded to take the deposition of M. H. Wade, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; the said M. H. Wade, being first sworn on the holy evangelist of Almighty God, deposeth and sayeth as follows:

To the first interrogatory.

She answers: I am.

Interrogatory 2d.

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Answer. I was there three or four times during his sickness, and remained some three or four hours at a time.

Interrogatory 3d.

Answer. I saw her each time I was there; did not see her in Captain Potter's room but once; she stayed in an adjoining room; I did not perceive that she was indisposed in any way, nor did she appear grieved during his illness, or after his death; I do not know whether she set up with him or not.

Interrogatory 4th.

[Answer.] I had a conversation with Mrs. E. E. Potter some three or four days before the death of Captain Potter; she asked me if I thought Captain Potter could live; I told her I did not think he could; she then remarked that she felt provoked at Samuel for forcing him to take first one thing, then another, and make him live any how; I afterwards met her on the steamboat coming up from Smithville; she then told me that she had made over her property to Samuel R. Potter, or she intended doing so, on account of his wife Marian; that she was very fond of her, and wished to stay with her the balance of her life; she did not know whether her friends at the North would be willing for her to live with them.

Interrogatory 5th.

Answer. I do not know that I can say that I know of any thing else.

D. MacMillan, *J. P.* M. H. WADE.

James T. Miller, *J. P.*

Defendant's interrogatories to Margaret H. Wade, filed 9th Oct., 1848.

United States of America,

North Carolina district.

Circuit court of the United States, in equity, to James T. Miller and Dugald McMillan, esquires.

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Julia Everitt, touching and concerning what she may know in and about said controversy; and that you take such deposition in writing, and return the same, under your hand and seal, to the court aforesaid, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 9th day of October, A. D. 1848.

WILLIAM H. HAYWOOD, *Clerk.*

Interrogatories to be propounded to Miss Julia Everitt.

Interrogatory 1st.

Are you acquainted with the parties to this suit; what relation or connexion are either of the parties to you?

Interrogatory 2d.

Were you at the house of plaintiff after the death of her husband, Captain Samuel Potter; if so, at what time, and how long did you remain?

Interrogatory 3d.

While you were there, were you in company of plaintiff much; if so, what was her general demeanor; did she appear grieved or distressed at her husband's death, or troubled in mind? State fully.

Interrogatory 4th.

Did plaintiff say any thing to you in relation to the opinions or feelings of her friends in Philadelphia as to what she had done with her interest in her husband's estate? If so, state all she said.

Interrogatory 5th.

Did plaintiff say any thing to you about her intention to remain with defendant Potter and his wife, her grand-daughter?

Interrogatory 6th.

Did plaintiff leave Wilmington with the intention of spending the summer of 1847 with defendant Potter, and under what circumstances did she leave Smithville?

Interrogatory 7th.

What was the condition of plaintiff's health while you were with her?

Interrogatory 8th.

Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

JOHN H. BRYAN,
Solicitor for defendants.

UNITED STATES OF AMERICA,
North Carolina district, circuit court.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify, that the foregoing is a full and true copy of the interrogatories filed by defendants' counsel, in the suit in equity at issue in this court—Elizabeth E. Potter against Samuel R. Potter and Mauger London.

Given under my hand and seal of office, at office, this day of October, 1848. WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we, this day, February 16th, 1849, at the house of Sterling B. Everitt, in the town of Wilmington, proceeded to take the deposition of Julia Everitt, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and

Samuel R. Potter and Mauger London are defendants. The said Julia Everitt, being first sworn on the holy evangelist of Almighty God, deposeth and sayeth as follows:

Interrogatory 1st, she answers:

I am acquainted with the parties to this suit; Samuel R. Potter, defendant, is my uncle; Mrs. E. E. Potter, plaintiff, is the wife of my grandfather.

Interrogatory 2d.

Answer. I was there the Tuesday after his death, and remained there two weeks.

Interrogatory 3d.

Answer. I was in company with plaintiff, and from all appearances she did not appear grieved or distressed at all.

Interrogatory 4th.

Answer. She said nothing to me in relation to business, only that she had gotten a letter from her son, Mr. Joseph Eyres, and he was much dissatisfied at what she had done.

Interrogatory 5th.

Answer. She did tell me that she expected to live always with Marian, her grand-daughter, and uncle Samuel R. Potter.

Interrogatory 6th.

Answer. She left Wilmington with uncle Samuel R. Potter, to spend the summer with him at Smithville, where she remained until about August, when Mr. Joseph Eyres arrived from Philadelphia, and she left with him the next day morning.

Interrogatory 7th.

Answer. From all appearances she was perfectly well during the time I was with her.

Interrogatory 8th.

Answer. I do not know of any thing else.

JULIA EVERITT.

D. MACMILLAN, *J. P.*
JAS. T. MILLER, *J. P.*

Defendant's interrogatories to Julia Everistt filed 9th October, 1848.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity.

To James T. Miller and Dugald McMillan, esquires.

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court, in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Amelia Everett, touching and concerning what she may know in and about said contro-

versy. And that you take such deposition in writing, and return the same, under your hand and seal, to the court aforesaid, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 9th day of October, A. D. 1848.

WM. H. HAYWOOD, *Clerk.*

Interrogatories to be propounded to Mrs. Amelia Everitt.

Interrogatory 1st.

Are you acquainted with the parties to this suit, and what relation are they to you?

Interrogatory 2nd.

Were you at the late residence of Samuel Potter, deceased, the late husband of plaintiff, during his last illness in Wilmington? If so, state how long you were there, and if you were much with him.

Interrogatory 3d.

What was the condition of plaintiff's mind during the illness of her husband, and shortly after his death; was she distressed, or otherwise; did she during said illness sit up and watch much; was she sick? If so, state particularly.

Interrogatory 4th.

Did plaintiff have knowledge of the value of her said huband's estate?

Interrogatory 5th.

Did plaintiff know that defendant, Samuel R. Potter, would return in the boat with her on the day of the funeral?

Interrogatory 6th.

Do you know that plaintiff conveyed her interest in her husband's estate to defendant, Samuel R. Potter; whether she did so of her own free will and accord; and whether she had any intention of remaining with defendant, and her grand-daughter, defendant's wife?

Interrogatory 7th.

What relation does the plaintiff bear to the wife of defendant Potter?

Interrogatory 8th.

Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

JOHN H. BRYAN,
Solicitor for defendants.

UNITED STATES OF AMERICA,
North Carolina district, circuit court, fifth circuit.

In equity.

I, William H. Haywood, clerk of the circuit court of the United

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States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of the interrogations exhibited and filed by the defendants in the suit at issue, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London, defendants, to be propounded to Amelia Everitt, a witness for defendants.

Given under my hand and seal of office, at office, this 9th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

Cross interrogatories to Mrs. Amelia Everitt, a witness for defendants, filed for plaintiff.

Cross interrogatory 1st.

If you have not already stated in detail all the reasons you have for your belief, in respect to Mrs. Potter's sickness or distress, you are required to do so now; and also to answer if in your opinion any thing was the matter with Mrs. Potter, and what it was; what relation are you to Doct. S. B. Everitt?

Cross interrogatory 2d.

How did you come to the knowledge of what the plaintiff's mind might be about the value of her husband's estate; tell all about it; and if you heard any conversation with her by any other person on this subject, repeat it in your answer.

WILL. H. HAYWOOD, Jr.,
For plaintiff.

UNITED STATES OF AMERICA,
North Carolina district, circuit court, fifth circuit.

In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of cross interrogations exhibited and filed by the plaintiff in the suit at issue in this court, between Elizabeth E. Potter, plaintiff, and Samuel R. Potter and Mauger London, defendants; to be propounded to Amelia Everitt, a witness.

Given under my hand and seal of office, at office, this 9th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we, this day, February 16, 1849, at the residence of Sterling B. Everitt, in the town of Wilmington, proceeded to take the deposition of Amelia Caroline Everitt, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants;

the said Amelia Caroline Everitt, being first sworn on the holy evangelist of Almighty God, deposeth and sayeth as follows:

Interrogatory 1st.

She answers. I am acquainted with the parties plaintiff; (Mrs. Potter,) is my step-mother; defendant S. J. Potter is my brother.

Interrogatory 2d.

Answer. I was with him at the time he was brought home sick, and remained with him until he died.

Interrogatory 3d.

Answer. She evinced little or no distress during his sickness or after his death, and set up part of the last night of his illness only.

Interrogatory 4th.

Answer. I presume she had as correct an idea as any of us had, from having heard her frequently speak of it.

Interrogatory 5th.

Answer. Yes, she did.

Interrogatory 6th.

Answer. I know that she conveyed it to him, and she said when she went with him to Smithville that she intended living with him; I presume she did it of her own free will and accord.

Interrogatory 7th.

Answer. Plaintiff is grandmother to defendant's wife.

Interrogatory 8th.

Answer. I know of nothing else.

Cross interrogatories propounded.

Interrogatory 1st.

She did not appear to be sick at all, and made no complaint of sickness whatever; am the wife of S. B. Everitt.

Interrogatory 2d.

Answer. From hearing of her speak of it frequently.

Further deponent sayeth not.

AMELIA CAROLINE EVERITT.

D. MACMILLAN, *J. P.*
JAS. T. MILLER, *J. P.*

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity.

To James T. Miller and Dugald McMillan esquires: Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court, in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Sterling B. Everitt, of Smithville, North Carolina, touching and concerning what [you] may know in and about said controversy; and that you take such deposition in writing, and return the same

under your hand and seal, to the court aforesaid, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 9th day of October, A. D. 1848.

WM. H. HAYWOOD, *Clerk.*

UNITED STATES OF AMERICA,
District of North Carolina.

Circuit court of the United States. In equity.

Interrogatories exhibited and filed on the part of the defendant, to be administered to Sterling B. Everitt, Josephine Bishop, Amelia Everitt, Margaret H. Wade, Julia Everitt, Edwin A. Keith, and Benjamin F. Ruggles, witnesses to be sworn and examined, on the part of the defendant, in a certain cause now pending and at issue in the said circuit court, in equity, between Elizabeth E. Potter, plaintiff, and Samuel R. Potter and Mauger London, defendants.

JOHN H. BRYAN,
Solicitor for defendants.

October the 9th, 1848.

Interrogatories to be propounded to Sterling B. Everitt.

Interrogatory 1st.

Are you acquainted with the parties to this suit, or connected with them or either of them?

Interrogatory 2d.

Are you a regular practising physician; if so, did you ever attend professionally upon plaintiff?

Interrogatory 3d.

Was Mrs. Potter, (plaintiff,) on Sunday, the 30th of May, 1847, sick or distressed?

Interrogatory 4th.

Do you know that when plaintiff left your house at Smithville on the day of the funeral of Samuel Potter, deceased, she was aware that defendant, Potter, was going to Wilmington with her?

Interrogatory 5th.

Did not plaintiff leave your house and go to the late residence of deceased at Smithville; if so, how far is it from your house to said residence; how far from your house to the steamboat; and how far from said residence to the grave of deceased? Whether plaintiff walked from your house to deceased's late residence, and whether she exhibited any sickness, illness, or grief, at that time; and what she was doing when you saw her at the residence of deceased?

Interrogatory 6th.

Was plaintiff sick, or of nervous temperament, or did she exhibit any nervousness upon the occasion of her husband's death?

Interrogatory 7th.

Do you know that plaintiff was aware of the value of her deceased husband's estate, and her interest therein?

Interrogatory 8th.

Do you know the value of the personal property of said Potter, deceased; if so, what is it?

Interrogatory 9th.

Do you know the yearly income, or the value of the real estate of Samuel Potter, deceased.

Interrogatory 10th.

Do you know the indebtedness of the deceased at the time of his death; if so, what was it?

Interrogatory 11th.

Do you know the condition of plaintiff's feelings towards defendant, Potter's wife? If so state.

Interrogatory 12th.

Were you with Samuel Potter, deceased, late husband of plaintiff, during his last illness; if so, how long were you there, and what was the condition of plaintiff's mind and health during that time; was she sick or distressed?

Interrogatory 13th.

Do you know, or can you set forth, any other matters or things which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

JOHN H. BRYAN,
Solicitor for defendants.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of the interrogatories exhibited and filed by the defendants in a suit at issue in this court, wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, *are* defendants; to be propounded to Sterling B. Everitt, a witness for the defendants.

Given under my hand and seal of office, at office, this 9th day of November, 1848. WM. H. HAYWOOD, *Clerk.*

Cross interrogatories exhibited and filed for the plaintiff, and to be propounded to Sterling B. Everitt, a witness for the defendant, in the suit of Elizabeth E. Potter against Samuel R. Potter and Mauger London, in the circuit court of the United States, for the district of North Carolina.

1st cross interrogatory.

Do you mean to be understood as declaring that you *was* the family

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physician of Mrs. Potter; did she not reside in Wilmington the greater part of the year, and was not Doct. James H. Dickson her physician; where do you reside; how often did you visit Capt. Potter during his last illness?

Cross interrogatory 2d.

In answering that Mrs. Potter did not appear to be distressed at her husband's death, do you mean to be understood as saying that her appearance and conduct at her husband's death and burial were natural and cheerful, or only that she did not weep and make lamentations? Set forth in detail every thing you observed, and what were the indications of cheerfulness or the lack of distress which struck your mind upon the occasions to which you refer; and set forth, also, how you accounted for this at the time, and how you account for it now; if she neither exhibited any sickness, illness, or grief, set forth what she did exhibit to your observation, at the time you refer to, in this your examination.

Cross interrogatory 3d.

If you say the plaintiff knew the value of her husband's estate, and of her interest therein, you will set forth in detail how you arrived at her knowledge of these things; and if you say that the late Capt. Potter was indebted a large amount at his death, you will set forth in your answer a list of his debts, with the creditor's names, and as nearly as you can the sums owing to each one; and also set forth when and how you came by your knowledge in the premises.

Cross interrogatory 4th.

Did you have any conversation, by yourself or another, with the plaintiff, Mrs. Potter, soon after her husband's death, by which an offer was made to purchase her interest in her husband's estate, or any part of it, or anything like it? And if yea, set forth every thing that occurred upon that occasion.

Cross interrogatory 5th.

When and where was it that you told Mrs. Potter that she could get 1,200 dollars a year, and horses and carriage, for her interest in the estate of her husband; and if not in these very words, when and where was it you held a conversation with her like the foregoing? And set forth every thing that took place on that occasion, and who else was present besides you and Mrs. Potter.

Cross interrogatory 6th.

Do you know, or have you reasons for believing, that Capt. Potter kept a book or memorandum of claims for advancements made to his children, and when did you see it last; as near as you can recollect, what were its contents; and can you state what became of that book or memorandum?

Cross interrogatory 7th.

Has there been any agreement by the defendant, Samuel R. Potter, with you, or any other person, for releasing or selling at a particular price, or upon any terms, whatever, his claim to dower in the real estate of Samuel Potter, deceased, or for purchasing any part of said

estate from the heirs, or for having any particular tract allotted to his share as one of the heirs, or any other agreement whatever concerning the property, real or personal? And if yea, set it forth in your answer.

Cross interrogatory 8th.

You will set forth in detail the estimates you have put upon the estates of Capt. Potter, and especially the valuation thereof which you have heretofore said you had made, so as to insert it word for word and figure for figure in your answer.

Cross interrogatory 9th.

In estimating the value of rents of the real estate of Samuel Potter, how much do you put down his house and lot in Wilmington, wherein he died, as being worth per year; and what do you put down as the value of the rents of the Point Peter plantation; and what do you set down the Gaston steam mills as being worth per year; and what the steam saw mills, &c., in Georgetown?

Cross interrogatory 10th.

How long since Capt. Potter married the plaintiff, and where did they marry.

WILL. H. HAYWOOD, Jr.,
Solicitor for plaintiff.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of cross interrogatories exhibited and filed for the plaintiff in the suit in equity at issue in this court—Elizabeth E. Potter against Samuel R. Potter and Mauger London, defendants; and to be propounded to Sterling B. Everitt, a witness for the defendant.

Given under my hand and seal of office, at office, this ninth day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we, this day, 14th day of February, 1849, at the office of James T. Miller, in the town of Wilmington, proceeded to take the deposition of Sterling B. Everitt, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants. The said Sterling B. Everitt, being first sworn on the holy evangelist of Almighty God, deposeth and sayeth as follows:

To the first interrogatory he answers as follows:

I am acquainted with all of the parties, and two of them are connected by marriage.

Interrogatory 2d.

I am a regular practising physician at this time, and have been for thirty years past; and have frequently attended Mrs. E. E. Potter, plaintiff.

Interrogatory 3d.

She did not exhibit any thing of the kind to me, either sickness or distress.

Interrogatory 4th.

I do not know, but have reason to believe that she did, inasmuch as she said to S. R. Potter, on her departure from my house, I will go, you can come after me.

Interrogatory 5th.

She did, and I went in a few minutes afterwards in company with Samuel R. Potter, and found Mrs. Potter reading the revised statutes; the distance from my house to the residence of deceased is about five hundred yards; from thence to the boat four hundred yards; she exhibited no symptoms of sickness or distress.

Interrogatory 6th.

None whatever.

Interrogatory 7th.

I have frequently heard her speak of the matter and thought she overrated it.

Interrogatory 8th.

I have frequently talked the matter, and from the best information think from fifty to sixty thousand dollars.

Interrogatory 9th.

It ought to amount to about two thousand dollars, but has never reached that sum.

Interrogatory 10th.

I know of no debt of magnitude; about nine thousand dollars due Sam'l R. Potter.

Interrogatory 11th.

I believe she loved her very much.

Interrogatory 12th.

I spent part of two days and nights with deceased during his illness, and had frequent intercourse with plaintiff; did not discover that her mind was disturbed, and her health good.

Interrogatory 13th.

I cannot call to mind any thing else at this time.

S. B. EVERITT.

Interrogatories to be propounded to S. B. Everitt.

Interrogatory 1st.

Answer. I have been her physician for many years, and she lived mainly at Smithville, where I did; for the first time in many years she was spending the winter in Wilmington, and Doctor Dickson was his physician during his last illness, together with myself; and I was with him part of two days and two nights.

Interrogatory 2d.

I don't believe she was at all distressed; yet I do not wish to signify that she behaved indecorously.

Interrogatory 3d.

I was aware of her knowledge of the value of her husband's estate, from hearing her speak of it repeatedly, and thought she overrated it. I am not aware of any debt of magnitude, except a debt of about nine thousand dollars due Samuel R. Potter. I heard S. R. Potter say his father owed him, and heard deceased say he owed his son, S. R. Potter.

Interrogatory 4th.

No such conversation ever occurred, nor such offer was ever made.

Interrogatory 5th.

I have no recollection of any such conversation with Mrs. Potter, at any time or place.

Interrogatory 6th.

It was a matter of great notoriety that such a book was kept by Capt. Samuel Potter; but it has not been seen since his death, nor did I ever see it.

Interrogatory 7th.

Yes; the heirs have, with one accord, sold S. R. Potter the plantation and negroes whereon he worked during his father's life, but there was nothing said about dower that ever I heard.

Interrogatory 8th.

I have said, and still believe, that the personal estate of Capt. Samuel [Potter] ought to be worth between fifty and sixty thousand dollars.

Interrogatory 9th.

House and lot in Wilmington rents at seven hundred dollars, including two stores in the basement story; I have no conception what should be the rent of the Point Peter plantation; the Gaston mills paid nothing, I believe; the Georgetown mill, a total loss.

Interrogatory 10th.

I do not recollect perfectly; I think about twelve years ago, and in Philadelphia.

Further the deponent sayeth not.

S. B. EVERITT.

At the time this deposition was taken there was no person present but the commissioners and the witness.

D. McMILLAN, *J. P.*
JAMES T. MILLER, *J. P.*

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity, April 9th, 1849.

To James T. Miller and Dugald McMillan, esquires, commissioners, &c.

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and

in pursuance of an order of our circuit court, in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of William A. Burr touching and concerning what he may know in and about said controversy; and that you take such deposition in writing, and return the same, under your hand and seal, to the court aforesaid, for the North Carolina district, on the first Monday of June next, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 9th day of April, A. D. 1849.

WM. H. HAYWOOD, *Clerk*.

ELIZABETH R. POTTER
against
SAMUEL R. POTTER and MAUGER LONDON.

In the circuit court of the United States, in equity.

Interrogatories exhibited and filed in the office of the clerk of said court on behalf of the defendants, Samuel R. Potter and Mauger London, to be propounded to William A. Burr.

Interrogatory 1st.

Have you had any connexion with the management of the estate of the late Samuel Potter, deceased, or any of the accounts connected therewith?

Interrogatory 2d.

Will you state what the value of the personal property of said estate is; in what it consists, and the amount of debts that have been paid by Samuel R. Potter, administrator of the said Samuel Potter, deceased, which said estate owed; and if any, what amount of debts now are due and owing to any person or persons by the said Samuel Potter, dec'd?

Interrogatory 3d.

Do you know in whose handwriting the inventory of said estate, returned to the court of pleas and quarter sessions of the county of New Hanover, is; and do you know whether it embraces all the personal property, and whether the said inventory was full and correct?

Interrogatory 4th.

Do you know, or have you any reason to believe, that the estate of Samuel Potter has lost any money invested by the deceased in any property, or mills, or otherwise, in Georgetown or elsewhere, and how much? State your sources of information on that point.

Interrogatory 5th.

Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause; if yea, set forth the same fully and at large in your answer.

JOHN H. BRYAN,
Solicitor for defendants.

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we, this 15th day of April, 1849, at the office of James T. Miller, in the town of Wilmington, proceeded to take the deposition of William A. Burr, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; the said William A. Burr, being first sworn on the holy evangelist of Almighty God, deposeth and sayeth, as follows:

To the 1st interrogatory I reply:

I have been in the habit of keeping accounts for the late Samuel Potter for five years previous to his death, and for Mr. Samuel R. Potter, administrator, since his death to the present time.

To interrogatory 2d.

From an investigation of the accounts, the value of the personal property of Samuel Potter, which came into the hands of his administrator, did not exceed $62,000, and consisted in negroes, bank stock, crop, promissory notes, railroad stock, household furniture, and some cash, and his interest in the Gaston mill, and mill at Georgetown, South Carolina; the debts of the late Samuel Potter, which have been paid by his administrator since his death to the present time, amount to $15,938 16, exclusive of administrator's commissions. I am not aware of any debts outstanding, but there are two expensive law suits pending against the estate now.

To interrogatory 3d.

The inventory returned to the county court was in my handwriting, and I believe it is full and correct.

To interrogatory 4th.

I have reason to believe the whole investment of the deceased, and $3,000, has been lost to the estate on the mill at Georgetown; and my sources of information are, my general knowledge of the affairs of the estate, and personal intercourse with the parties most particularly interested.

To interrogatory 5th.

I know nothing.

W. A. BURR.

D. MACMILLAN, *J. P.*
JAS. T. MILLER, *J. P.*

W. A. BURR, *For def'ts.*

Filed in office of clerk circuit court, on 18th of March, 1849.
WM. H. HAYWOOD, *Clerk.*

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity.

To James T. Miller and Dugald McMillan, esquires.

Know ye, that we, in confidence of your prudence and fidelity, have

appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court, in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Edwin A. Keith, touching and concerning what he may know in and about said controversy. And that you take such deposition in writing, and return the same, under your hand and seal, to the court aforesaid, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the 9th day of October, A. D. 1848.

WM. H. HAYWOOD, *Clerk.*

ELIZABETH E. POTTER
vs.
SAMUEL R. POTTER and Mauger London.

UNITED STATES OF AMERICA,
North Carolina district.

Interrogatories exhibited and filed, to be propounded to Edwin A. Keith, a witness for defendants.

Interrogatories to be propounded to Edwin A. Keith.

Interrogatory 1st.

Are you acquainted with the parties to this suit?

Interrogatory 2d.

Were you at the residence of Samuel Potter, deceased, late husband of the plaintiff, during his last illness? If so, state how often you were there, and how long you remained; and if you saw said plaintiff, what was the state of her health, and the condition of her mind; whether she was nervous, sick, or distressed, either during the illness of deceased or after his death? State fully.

Interrogatory 3d.

Did you accompany the corpse from Wilmington to Smithville, and return in the boat in company with plaintiff and defendants, and how and with whom plaintiff and defendants went from the boat on reaching Wilmington, and where they went, and especially where defendant, London, went?

Interrogatory 4th.

Did you on that day, to wit, Sunday, 30th May, 1847, observe the plaintiff; if so, was she sick, distressed, or otherwise?

Interrogatory 5th.

Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

JOHN H. BRYAN,
Solicitor for defendants.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth circuit. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a full and true copy of interrogatories filed by defendants in the suit at issue in this court, wherein Elizabeth E. Potter is plaintiff, and Sam'l R. Potter and Mauger London are defendants; and to be propounded to Edwin A. Keith, a witness for the defendants.

Given under my hand and seal of office, at office, this 9th day of November, 1848, A. D.

WM. H. HAYWOOD, *Clerk.*

Cross interrogatories exhibited for the plaintiff, to be propounded to Edwin A. Keith, a witness for defendants.

1st cross interrogatory.

Set forth your reasons for believing that Mrs. Potter was or was not sick or distressed on the 30th May, 1847.

2d interrogatory.

How did you judge of the defendant, Samuel R. Potter; did he seem to be distressed, and what were the indications of it which you observed in him and not in Mrs. Potter?

3d interrogatory.

Are Mauger London and Samuel R. Potter very intimate associates and friends or not, and how long have they been so?

4th interrogatory.

Did you not see Mauger London and Samuel R. Potter talking together on board of the boat on the 30th May, 1847; and if so, where were they, and who was present to hear what they were talking about?

5th interrogatory.

Did Mrs. Potter occupy the cabin or the deck of the boat, and who was with her, and whom did you see talking to her, either in going to Smithville or returning; where was she when you first saw her on her return towards Wilmington, viz., in what part of the boat; who was with her or talking to her?

WILL. H. HAYWOOD, Jr.,
For plaintiff.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court, fifth district. In equity.

I, William H. Haywood, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify the foregoing to be a copy of the cross interrogatories exhibited and filed for the plaintiff in the suit at issue in this court; Elizabeth E. Potter, plaintiff, and Samuel R. Potter and Mauger London, defendants; to be propounded to Edwin A. Keith, a witness.

Given under my hand and seal of office, at office, this 9th day of November, 1848.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission to us directed, we, this day, February the 14th, 1849, at the office of James T. Miller, in the town of Wilmington, proceed to take the deposition of Edwin A. Keith, to be read in evidence in a certain suit pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; the said E. A. Keith, being first sworn on the holy evangelist of Almighty God, deposeth and sayeth as follows:

To interrogatory 1st he answers as follows:

I am.

Interrogatory 2d.

I was at the residence of Capt. Samuel Potter nearly every day during his illness; sat up with him two nights; I saw the plaintiff frequently during my visits, and from her appearance should think her state of health and mind were good; saw no symptoms of distress, nervousness, or sickness.

Interrogatory 3d.

I accompanied the corpse from Wilmington to Smithville, and returned in company with the plaintiff and defendants; on reaching Wilmington, I walked from the boat in company with plaintiff and defendants to the residence of the deceased; on reaching the residence of the deceased, plaintiff (Mrs. E. E. Potter) asked defendant (London) to walk into the house; he declined doing so, and went on in company with me to my boarding house.

Interrogatory 4th.

I saw the plaintiff on Sunday, 30th May, 1847, the day the deceased (Capt. Samuel Potter) was buried; I saw no appearance of sickness or distress.

Interrogatory 5th.

I do not know any thing further that may be of any advantage to either party.

Further deponent sayeth not.

E. A. KEITH.

Cross interrogatories propounded to E. A. Keith.

1st cross interrogatory he answers as follows:

From her conversation on board of the boat, going from Wilmington to Smithville, and from her appearance and manner during the day, I do not think she was sick or distressed.

Interrogatory 2d.

His appearance indicated distress.

Interrogatory 3d.

They are, and have been ever since I have known them.

Interrogatory 4th.

I saw them together in conversation on board the boat, in the cabin. Mrs. E. E. Potter was present; who else was present I do not recollect, neither do I recollect the conversation.

Interrogatory 5th.

Mrs. E. E. Potter was in the cabin of the boat, and I saw her in conversation with Mauger London; on her return to Wilmington, I saw her in company with Mr. London coming from the boat.

Further deponent sayeth not.

E. A. KEITH.

At the time this deposition was taken there was no person present but the commissioners and witnesses.

D. MACMILLAN, *J. P.*
JAMES T. MILLER, *J. P.*

Defendants' interrogatories to Edwin A. Keith. Filed 9th October, 1848.

UNITED STATES OF AMERICA,
North Carolina district.

Circuit court of the United States, in equity, to James T. Miller and Dugald McMillan, esquires, commissioners, &c., to take depositions of witnesses, &c.

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power, and in pursuance of an order of our circuit court, in equity, made in a cause wherein Elizabeth E. Potter is plaintiff, against Samuel R. Potter and Mauger London, defendants, at such time and place as you shall think fit, to take upon oath, on the holy evangelists of Almighty God, the deposition of Mauger London, touching and concerning what he may know in and about said controversy; and that you take such deposition in writing, and return the same, under your hand and seal, to the court aforesaid, for the North Carolina district, at Raleigh, together with this writ.

Witness James M. Wayne, esq., associate justice of the United States, at Raleigh, the last Monday of November, A. D. 1848.

Issued 16th February, 1849.

WM. H. HAYWOOD, *Clerk.*

ELIZABETH E. POTTER
against
SAMUEL R. POTTER and Mauger London.

In the circuit court of the United States. In equity.

Interrogatories exhibited and filed in the office of the clerk of said court, on behalf of the defendants, Samuel R. Potter, to be propounded,

by leave of the court, to Mauger London, co-defendant in said cause.

Interrogatory 1st.

Were you acquainted with the plaintiff, Elizabeth E. Potter; what was her temper, disposition; upon what terms did she live with her husband, Samuel Potter, deceased; and what are the sources of information on these points?

Interrogatory 2d.

What was the age of Samuel Potter, deceased, at the time of his intermarriage with the plaintiff; how many children had he at the time; how many children had the plaintiff at that time; and where did they reside?

Interrogatory 3d.

State particularly the conduct and behavior of the plaintiff immediately preceding the death of Samuel Potter, the husband of plaintiff, and at and after his death; and whether the plaintiff appeared to be suffering from distress; and what was your opportunity of forming an opinion or acquiring information on these points.

Interrogatory 4th.

Did you witness the deed of assignment, dated 31st May, 1847; how did you happen to be a witness to the same; by whom was the same written, or why, and under what circumstances?

Interrogatory 5th.

State, as far as you can, the reasons and motives, in addition to those stated in the deed, which induced the plaintiff to execute the same.

Interrogatory 6th.

When, and how often, and under what circumstances, and for what purpose, did you go to the house of the plaintiff, during the week immediately after the death of plaintiff's husband, Samuel Potter?

Interrogatory 7th.

What was the condition and state of mind of the plaintiff at the time of the execution of said assignment; and what knowledge did she appear to possess of the value of the property assigned?

Interrogatory 8th.

Was the said deed of assignment read to plaintiff before its execution; was it explained to her; did she understand her rights and interests in the estate of her late deceased husband, before its execution; and by whom were the same explained to her?

Interrogatory 9th.

Did you have any reason to believe that plaintiff was dissatisfied with her having executed said deed: if so, when did she manifest such dissatisfaction; and did she assign any reasons; and if so, what were said reasons?

Interrogatory 10th.

Did such dissatisfaction become known to the co-defendant, Samuel R. Potter; and what was his conduct thereupon, as far as you know?

Interrogatory 11th.

Did you witness the deed mentioned in the pleadings, dated 21st June, 1847; did plaintiff have an interview with you prior to its ex-

ecution, under what circumstances, and for what reason was said deed executed, and what did plaintiff say in regard thereto?

Interrogatory 12th.

What do you know relative to plaintiff's signing a receipt, referred to in the bill, for an instalment of the annuity mentioned in the deed of covenant?

Interrogatory 13th.

Did she sign any other paper-writing at the same time; what was its nature, and why was the same executed by her?

Interrogatory 14th.

Have you any knowledge of the defendant, Samuel R. Potter, at any time proffering to surrender the deed of assignment to plaintiff; and if so, at what time was this offer made, and under what circumstances?

Interrogatory 15th.

Before the execution of the deed of assignment by plaintiff, did she have an opportunity, or was she advised, to consult any person or persons as to the propriety of her signing the same; and if so, whom?

Interrogatory 16th.

Was plaintiff aware and informed of her right to administer on the estate of her deceased husband; and if so, what reason did she assign for relinquishing the same to the defendant, Samuel R. Potter?

Interrogatory 17th.

Under what circumstances and for what reason were you employed as attorney to file a petition for plaintiff's year's allowance as the widow of Samuel Potter, deceased?

Interrogatory 18th.

State where plaintiff resided prior to the death of her late husband, Samuel Potter, and how long a time did she reside in the same place?

Interrogatory 19th.

Did plaintiff exhibit any anxiety that the interest of her granddaughter in the estate under the assignment should be attended to; and what did she say with regard to it; and did she assign any particular reason why she wanted defendant Potter to buy her interest?

Interrogatory 20th.

Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

JOHN H. BRYAN,
Solicitor for defendants.

February 5th, 1849, interrogatories filed.

W. H. HAYWOOD, *Clerk.*

Passed and allowed, rule day, July 2d, 1849.

W. H. H., *Clerk.*

Plaintiff's appeal from the decision of the clerk, by which the deposition of Mauger London is allowed and passed.

W. H. H., *Clerk.*

ELIZABETH E. POTTER
against
SAMUEL R. POTTER AND MAUGER LONDON.

Cross interrogatories filed for the plaintiff, to be propounded to Mauger London, a witness for the defendant.

First. The plaintiff excepts to the interrogatories of the defendant, and particularly to 5th, in so far as the said interrogatories are designed and intended to introduce evidence in the above entitled cause of any consideration or motive for the making of the deeds referred to, contradictory of the consideration expressed in said deeds, because such evidence will be irrelevant and is not admissible in said suit. Not waiving said exception, the plaintiff files the following cross interrogatories, to wit:

Interrogatory 1st.

Was there any intimate acquaintance between you and the plaintiff before her late husband's death, and did you at any time before act as her counsellor; and if yea, when and what about; and if there was any intimacy between you and the plaintiff before her late husband's death, please state when it commenced, and what instances can you relate which go to prove that it was mutual? In answering this question, be so good as to state every thing of the kind that comes within your recollection.

Interrogatory 2d.

During the life of Mr. Potter, the elder, and at his death, did his son Samuel live in the house with him, and as a member of his family; and what other males were of the family and residing in his mansion with Mr. Potter after his death; was there any other besides the defendant, Samuel R. Potter?

Interrogatory 3d.

Is there a close intimacy between you and the defendant, Samuel R. Potter, and at what time did it begin; and did you and he associate much together as friends before the elder Mr. Potter's death, and after it; and for what length of time before his death?

Interrogatory 4th.

If during the period of time when you *was* engaged in preparing the deeds mentioned in your answer to the defendants' interrogatories, the said Samuel R. Potter was at your office, or any where else in your company, you will be good enough to say when it was, and how often, and where it was, and what conversations passed between you and him on the subject of said deeds, or about his step-mother, or her share of his father's estate? In answering this question you are requested to be as precise as you can about dates, places, and conversations, and to answer who else heard you, or was present and might have heard your conversations; and if any notes passed from him or any other person to you, please produce the same, and set forth copies in your answer.

Interrogatory 5th.

You are requested to set forth all your reasons for suggesting to Mrs.

Potter the propriety of her consulting other persons, or any other person, before she signed the said deeds; and whether you did or did not consult any one else about it for her; and if not, why not; and whether William A. Wright, esq., of the town of Wilmington, was one of the persons you advised her to consult, and where the other persons you advised her to consult lived; and whether Mrs. Potter, at the time she signed said deeds, did or did not live in the same house with the defendant, Samuel R. Potter, in Wilmington?

Interrogatory 6th.

Has there been a settlement between you and the defendant Potter since this bill was filed, and can you exhibit and set forth a copy of it in your answer to this question; was he to pay you for preparing said deeds, and how much has he paid you; and did he pay you more, and if so, how much, for that or any other service? Did you borrow $1,000, or any sum like it, from the defendant Potter, and give your note for it, and when was it; and can you set forth a copy of said note? Was any security given at the time, or has any been given since; and if since, when was it, and who is the surety? Are you one of the defendant Potter's counsellors in the management of his father's estate, and when did he employ you; are you one of his counsellors in defending this suit; did you prepare, or aid and assist in preparing, the interrogatories propounded to yourself in this suit for the said defendant; did you prepare or assist in preparing any of the interrogatories heretofore filed for the defendant, and to be propounded to any other witnesses, and who are these witnesses?

Interrogatory 7th.

Will you endeavor to recollect and say whether, at any time, in the lifetime of Samuel Potter, the elder, or since, or both before and since, you have heard the defendant, Samuel R. Potter, speak of his stepmother's motives in marrying his father, and if yea, what did he say; whether at these times, or either of them, or at any time, the said defendant said any thing about his own expectations from his father had he made a will, or should he make one, and what it was, and who else was present besides you and him? Use the defendant Potter's own language as nearly as you can recollect it in your answer.

Interrogatory 8th.

Where was the defendant Potter when you advised Mrs. Potter to consult others about signing the deed; have you reason to know he was apprised of your being engaged in preparing said deeds; and if yea, tell all of your reasons for believing he did know it; was he at your office, and in your company there or elsewhere during the time, or just before or after the time; and can you repeat the conversations between him and yourself on those occasions; if you can, then do it; if not, then detail their subject and substance as well as you do remember them; did he, on the several occasions of your visits to Mrs. Potter, go along with you; and upon how many of them did he do so?

Interrogatory 9th.

Can you name any person in Wilmington, out of Captain Potter's

family, with whom Mrs. Potter was upon intimate terms. I mean any gentlemen, or men of business, not ladies; can you name several; and if yea, state their names and their pursuits in life?

Interrogatory 10th.

Was the defendant, Potter, the only son of his father or not; and who married his daughters; and where did they live when Captain Potter died?

WILL. H. HAYWOOD, Jr.,
Attorney for plaintiff.

Filed 15th February, 1849.

WM. H. HAYWOOD, *Clerk.*

STATE OF NORTH CAROLINA,
New Hanover county.

In pursuance of the annexed commission, to us directed, we, this day, April the 14th, 1849, at the office of James T. Miller, in the town of Wilmington, proceeded to take the deposition of Mauger London, to be read in evidence in a certain suit, pending in the circuit court of the United States, in equity, wherein Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants. The said Mauger London, being first sworn on the holy evangelist of Almighty God, deposeth and sayeth as follows:

To interrogatory 1st.

This deponent sayeth? That he was acquainted with the plaintiff, Mrs. Potter; she appeared when he saw her, during her husband's life, to be a mild and amiable lady, affable and agreeable; but he has been informed by almost every member of Captain Potter's family that she was a woman of violent passions, exceedingly intolerant and imperious; that she and her late husband lived upon very unhappy terms; that no concessions on his part would quell her violence at times; that she resorted to every means in her power to harass and torment him; and that she was a woman of uncommon shrewdness and duplicity. He receives this information from co-defendant, Capt. Potter's sons-in-law, Dr. Everitt and John Potts Browne; and has heard Daniel B. Baker, esq., another son-in-law, say that Captain Potter told him he believed that nothing but the fear of the gallows kept her from taking his life.

To interrogatory 2d he answering saith:

He thinks that Captain Potter was 55 or 60 at the time of his marriage with plaintiff, and he had four children living, and a grand-child, the son of a deceased daughter; the plaintiff had, as this defendant is informed, five or six children, who resided, as he is also informed, in Philadelphia.

To interrogatory 3d he saith:

That the plaintiff, during the illness of her late husband, exhibited so little anxiety and concern about him, that it was the subject of remark among all or many of those who were present; that the same un-

concern characterised her conduct immediately after his death; and this deponent never saw her exhibit the least emotion of grief or distress but once, and then for a moment, as the corpse was about to be removed from the steamboat to the wharf at Smithville; he was with the deceased much during his last illness; set up with him two nights during that time, and was with him the night he died; and saw the plaintiff several times thereafter, and never, with the single exception, did he discover any evidences of grief or distress on the part of plaintiff.

To interrogatory 4th he saith:

He did witness the deed bearing date the 31st May, 1847, by which plaintiff conveyed her interest in her husband's estate, and that he wrote the same at the special instance and request of plaintiff; that plaintiff sent for him; that he went to see her, and she informed him she intended to make a conveyance of her interest in her husband's estate to Samuel R. Potter, that her grand-daughter, Potter's wife, might have the benefit of it; that she had agreed upon the terms, to wit, one thousand dollars in cash, and annuity of $600, and her board, &c.; and that she was to have her year's allowance. At the time of the execution of the said deed there was no one present but plaintiff, Samuel R. Potter and his wife, and this deponent; that this deponent was the only competent witness, and that no other person was present at the request of plaintiff, who desired the transaction to be kept secret.

To interrogatory 5th he saith:

That both before and after the execution of the deed, the plaintiff told this deponent that she intended to live the remainder of her life with Samuel R. Potter and her grand-daughter, his wife; and that the disposition she was about to make and had made of her property, was a long cherished object; that Potter's wife was her favorite grand-daughter, and that the management of the property would be troublesome, and the amount of money paid by Potter, and the annuity, would be as much as she wanted; that that amount would make her comfortable, and she wanted no more.

To interrogatory 6th he saith:

That he went to the house of plaintiff several times during the week after her husband's death; that he went there because the plaintiff sent for him, and requested him to prepare the deeds, which he did.

To interrogatory 7th he saith:

That the plaintiff, at the time of the execution of the deed of assignment, was in her usual spirits and health, so far as this deponent could judge; she did not appear at all distressed or grieved; talked with great freedom and without reserve about her husband's estate; said that she had a full knowledge of its value, which she had derived from her late husband; and that she well knew that the amount Potter was giving for her interest in the same was much less than its value; but that she desired to make the conveyance on account of her partiality for her grand-daughter, Mrs. Potter, and her determination to live with them.

To interrogatory 8th he saith:

That the deed of assignment was twice read to plaintiff before she

executed the same, its contents were fully explained to her; and she appeared to fully understand her rights and interest in the estate of her late husband before the execution of said deed; that this deponent took very great care to explain to her her interest in the same; that she more than once repeated that she well knew her rights and interest, and that she was desirous of executing the deed.

To interrogatory 9th he saith:

That he had no reason to believe that plaintiff was dissatisfied with having made the deed, till about a fortnight afterwards, when she sent for this deponent, and expressed her dissatisfaction at having made the deed, and said that she had received a great many letters from her friends in Philadelphia, who were very much put out with her on that account, and particularly they complained that no provision was made for her daughter, Mrs. Babcock; this defendant then said he would use his best endeavors to induce Samuel R. Potter to surrender the deed; she said she did not wish that, but wanted an annuity secured to Mrs. Babcock, to take effect after her death; and that if Potter would give that, she would be satisfied, and she thought her Philadelphia friends ought to be.

To interrogatory 10th he saith:

That he immediately informed Samuel R. Potter of the dissatisfaction of plaintiff, whereupon he said he would surrender the deed to her if she desired it, or would if she preferred give the annuity which she desired, provided it was not too large.

To interrogatory 11th he saith:

That he did witness the deed dated the 21st June, 1847, and plaintiff prior to its execution sent for this deponent, and told him that Samuel R. Potter had consented to enter into the agreement to secure Mrs. Babcock an annuity of $150, and that it met her approbation; and she desired this deponent to draw a deed of covenant to that effect; and that the day after the aforesaid interview, or the same day, this deponent does not recollect which, the deed was prepared and executed by Samuel R. Potter, and plaintiff then said she was perfectly satisfied, and she wished the property conveyed to Potter was ten times as much for the sake of her grand-daughter.

To interrogatory 12th he saith:

That at the time the deed bearing date the 21st June, 1847, was executed by Potter, plaintiff signed a receipt for an instalment of the annuity granted by deed of covenant, and under the following circumstances: Potter told her that she ought to give a receipt for the $150 which his wife had paid her; to which plaintiff replied that she had already given a receipt for that sum to his wife, but the receipt was not produced; this deponent, not supposing that the receipt expressed upon its face for what purpose the money was received, said that it would be better to give one containing that statement, whereupon plaintiff signed the receipt referred to.

To interrogatory 13th he saith:

That plaintiff did sign another paper writing, the purport of which

was, that she was perfectly satisfied with what she had done in regard to conveying her interest in her husband's estate; the reason why she signed the same was, that this deponent requested her to do so; for that as her friends in Philadelphia had once expressed a dissatisfaction at what had been done, they might again complain and operate upon her, and in that event this deponent thought it was due Potter and himself that she should sign the paper, that they might have evidence of her entire willingness to do what she had; this deponent wrote the paper in her presence after she said she would sign such a writing, and she then and there signed the same.

To interrogatory 14th he saith:

That at the time the covenant was entered into, on the 21st instant, securing to Mrs. Babcock an annuity, the defendant Potter told the plaintiff that if she was dissatisfied with what she had done he would surrender the deed of assignment to her; the plaintiff said she did not wish to undo the bargain, but merely wanted this latter deed to satisfy her Philadelphia friends.

To interrogatory 15th he saith:

That the evening before plaintiff signed the deed, bearing date 31st May, 1847, he advised her to consult Mr. P. K. Dickinson, the partner of her late husband, and Mr. Daniel B. Baker, her husband's son-in-law.

To interrogatory 16th he saith:

That plaintiff before she signed the deed was informed that she had a right to administer upon her husband's estate; she at the same time said she knew her rights to do so, but that she did not want the trouble; that she had managed two estates and did not wish to administer, but wanted Samuel R. Potter to do so.

To interrogatory 17th he saith:

On the evening the deed was executed by plaintiff, and shortly thereafter, plaintiff requested this deponent to see that she got her year's allowance, and take the necessary steps to obtain the same; and this deponent filed the petition for that purpose in the county court of New Hanover.

To interrogatory 18th he saith:

That plaintiff for the four or five years anterior to the death of her husband resided, during the winter months, say from October till May, in the town of Wilmington, and the remaining part of the year at Smithville (usually.)

To interrogatory 19th he saith:

That plaintiff said to this deponent, "I want you to get all you can for Marian, Potter's wife," and one reason I have for selling out to Samuel is, that he may purchase the Point and the negroes.

Furthermore this deponent sayeth not.

MAUGER LONDON.

To the first cross interrogatory this deponent answering saith:

That he was not on intimate terms with plaintiff; that he had very

frequently been in her company, and much more often at the house of her husband than elsewhere; that their intercourse had been always of a friendly nature, but nothing that could be called intimate; that he had never acted as her counsellor at any time previous to her husband's death.

To cross interrogatory 2d he saith:

That Samuel R. Potter did live in the house with his father during the latter's life, and was so residing at the period of his death, and he was the only male of the family; and he resided there with Mrs. Potter after the death of his father.

To cross interrogatory 3d he saith:

There is a close intimacy between him and Samuel R. Potter, and that they did associate together as friends before the death of Capt. Potter; that they were at school together when boys; that their intimacy has been closer since the death of Capt. Potter than before that event, and particularly so since the institution of this suit.

To cross interrogatory 4th he saith:

That while he was preparing the deed dated 31 May, 1847, Samuel R. Potter was in his office during a short time; that some conversation passed between him and Potter, the substance of which is set forth in the answer of this deponent filed in this case, and he begs to refer to the same for the particulars of said conversation, as to time and place; he thinks no one was present during that time, or heard, or might have heard, what passed between them; that no notes passed between them, or from any other person to him, or from him to any other person.

To cross interrogatory 5th he saith:

That the reasons which induced him to suggest to plaintiff the propriety of her consulting other persons, were first: that the conveyance was made very shortly after her husband's death, and at a time when he supposed a woman of any sensibility would have avoided the transaction of any business; and he wanted, in as delicate a manner as possible, to let her know his own feelings upon that subject, without unnecessarily wounding her feelings, or Potter's; secondly, he thought it strange that she should have made such an arrangement with Potter, and thought that if she was induced to do so by any momentary impulse of generosity to him or her grand-daughter, a conference with her friends would enable her the better to determine her own feelings on the subject, and afford her opportunity for reflection; thirdly, because the property was large, and the consideration was an inadequate one; fourthly, because his own sense of propriety suggested that she ought to have an opportunity of advising with some of her friends, who knew the value of the estate; he did not consult with any one about it for her, for that she desired him to keep the transaction secret; the only person who knew of it was David Reid, esq., who was in the office of this deponent a part of the time while he was writing the deed; that there is a great intimacy between Reid and him, and he asked this deponent what he was writing; when deponent told him, under the pledge of secrecy; he did not advise her to consult Wm. A. Wright,

esq.; Daniel B. Baker, esq., one of the persons he advised her to consult, lived in the next house to plaintiff; and P. K. Dickinson, esq., the other person, resided on the next square from her residence, both in the town of Wilmington, and at the time she signed said deed she lived in the same house with Samuel R. Potter, in Wilmington.

To cross interrogatory 6th he saith:

That there has not been a settlement between him and defendant Potter since this bill was filed; he agreed, in the presence of plaintiff, and under the circumstances set forth in this deponent's answer, to pay the fee for writing the deed, but has not yet paid the same; the charge for the same is twenty-five dollars, and he has not yet paid anything; this deponent did borrow $1000 from defendant Potter, and give his note for it; it was on the 21st June, the day the covenant to pay Mrs. Babcock an annuity was entered into, in the presence of Mrs. Potter, the plaintiff, and under the circumstances set forth in the answer of this deponent; he cannot set forth a copy of it, for that Potter still has possession of it, it being still unpaid; there was not, nor has there been, any security given for it; he is one of defendant Potter's counsellors in the management of his father's estate; was employed some time after June court, 1847, when Daniel B. Baker, esq., requested Potter to employ this deponent.

He did assist in preparing the interrogatories propounded to himself in this suit, and all, or nearly all, the interrogatories heretofore filed for the defendants, and to be propounded to other witnesses; this deponent is one of the counsellors of defendant in this suit, so far as aiding in the preparation of the interrogatories are concerned, and has advised defendant Potter concerning the suit.

To cross interrogatory 7th he says:

That he has not now any distinct recollection of hearing defendant Potter speak of the motives of plaintiff in marrying his father, but thinks he has heard him say that she married him for his money; that impression is, however, so universal, that he might well mistake it for the declarations of Potter; he does recollect hearing defendant Potter say, that the day of the marriage of plaintiff in Philadelphia, about six hours after the ceremony, plaintiff proposed to his father that he should give her an annuity, and she would remain in Philadelphia, and he could come home; he never heard defendant Potter speak of his own expectations from his father's estate, had he made a will, or in any way.

To interrogatory 8th he says:

That defendant Potter was present at the time this deponent advised plaintiff to consult Mr. Baker and Mr. Dickinson, to the best of this deponent's recollection at the time; he knows Potter was aware of his preparing the deed, for he was in the office of this deponent a part of the time while he was writing it. This deponent is unable to repeat the conversation that passed between him and defendant; he recollects mentioning to defendant his astonishment at the entire want of feeling on the part of plaintiff at the death of her husband, and ex-

pressing his surprise that plaintiff should make such a disposition of her property. Defendant Potter said that she was not distressed at his father's death, but that she entertained great affection for his wife; and he believed that her regard for her, and her desire to live with her, was the chief motive she had in making the deed; and that he did not believe that she would be making such a bad bargain, for that the real estate was unproductive property, except the Point Peter plantation, and that was only made so by the personal exertions of defendant. There may have been other conversations, and this deponent believes there were, but is unable to repeat even the substance of them; he never did, on the occasion of his visits to plaintiff, go along with me, this deponent, but was generally there on those occasions.

To cross interrogatory 9th he saith:

That he believes that Mrs. Potter was in the habit of frequent and friendly association with the family of Mr. John Walker, a rice planter residing in Wilmington during the winter months, and at Smithville during the summer. P. K. Dickinson, the owner of a steam-mill, and partner of Captain Potter, a merchant of extensive experience; James Anderson, an extensive dry-goods merchant; A. J. DeRosset, commission merchant; and that D. B. Baker, the son-in-law of Captain Potter, was frequently at her house on intimate terms. Whether these gentlemen were intimate with plaintiff or not this deponent cannot say, but knows they and she were well acquainted.

To cross interrogatory 10th he saith:

That the defendant Potter is the only son of his father, and that John Potts Brown married one daughter, and was residing in New York at the time of Captain Potter's death; Nicholas Tally married one, and was residing at Columbia, in South Carolina; Sterling B. Everett married one, and was residing at Smithville; Daniel B. Baker another, and resided at Wilmington.

MAUGER LONDON.

D. MACMILLAN, *J. P.*
JAS. T. MILLER, *J. P.*

The plaintiff appeals from the decision of the clerk, by which the deposition of Mauger London is passed.

W. H. H., *Clerk.*

The undersigned being called upon and required to certify the facts, do hereby certify, that upon taking the deposition of Mauger London, esqr., under the commission to us directed from the circuit court of the United States, for the district of North Carolina, in the case in which Elizabeth E. Potter was complainant, and Samuel R. Potter and Mauger London were defendants, the answers of said Mauger London to the interrogatories to him submitted were written out by the said Mauger London; said answers having been prepared and written out as aforesaid before the said Mauger London appeared before us to an-

swer said interrogatories. The answers of said Mauger London, so prepared, were sworn to and subscribed by him in our presence.

WILMINGTON, *November* 12, 1849.

JAS. T. MILLER.
D. MACMILLAN.

STATE OF NORTH CAROLINA,
New Hanover county.

ELIZABETH E. POTTER
vs.
SAMUEL R. POTTER and others.

We, the undersigned commissioners, appointed to take the depositions of Mauger London, to be read in evidence in the above stated cause, pending in the circuit court of the United States, at Raleigh, hereby certify, that the said deposition taken by us was written by said London at our instance and request, and that the same was duly subscribed and sworn to before us.

JAS. T. MILLER.
D. MACMILLAN.

The following depositions filed for the complainant were not read; but being offered by the complainant, the court refused to hear them, to wit:

ELIZABETH E. POTTER, plaintiff,
vs.
SAMUEL R. POTTER and MAUGER LONDON, defendants.
In equity.

In the circuit court of the United States, for the district of North Carolina.

Depositions of witnesses, de bene esse, produced, sworn, and examined on the nineteenth day of November, anno domini one thousand eight hundred and forty-nine, at the city of Philadelphia, and State of Pennsylvania, before me, William D. Kelly, one of the judges of the court of common pleas for the city and county of Philadelphia, to be used as testimony in a cause depending in equity in the circuit court of the United States, for the district of North Carolina, in which Elizabeth E. Potter is plaintiff, and Samuel R. Potter and Mauger London are defendants; on behalf of the plaintiff, Emma Louisa Allibone, being duly affirmed according to law, doth depose and say: "I am thirty-seven years of age; I am the wife of Mr. Thomas Allibone, of Philadelphia; I am the daughter of Mrs. Potter, the plaintiff in this suit; I reside with my husband in the county of Philadelphia; I wrote two letters to my mother, the plaintiff in this suit, after the death of Mr. Potter, her husband," (witness is shown the letters hereto annexed, marked A and B,) and "says they are the original letters written by me to my mother; one is dated Hamiltonville, June 16th, 1847; the other, Greenwood, July 26th, 1847; both these letters are in my handwriting; they were written by me to my mother at the time at which they respectively bear date, and were sent by mail, addressed to my

mother, the plaintiff, at Wilmington, North Carolina; these are all the letters that I recollect having written to my mother after the death of her husband, Mr. Potter; I did not receive any letters from my mother; I am not certain that I know the handwriting of Mrs. Maria Potter, the wife of Samuel R. Potter, one of the defendants in this suit; I have seen letters purporting to have been written by her; (witness is here shewn letter marked D, and hereto annexed;) says I am sufficiently well acquainted with her handwriting to say whether this letter is written by her or not; the body of this letter is not in the handwriting of my mother; the signature is my mother's, written by her; I know my mother's handwriting."

EMMA LOUISA ALLIBONE.

Affirmed and subscribed before me, this 19th day of November, 1849.

WM. D. KELLY.

Joseph K. Eyre, being duly sworn, doth depose and say:

"I am forty-five years of age; I reside in Montgomery county, State of Pennsylvania; I removed there lately; I do business in the city of Philadelphia; I am the son of Mrs. Potter, the plaintiff in this suit; I corresponded by letter with my mother after the death of her husband, Mr. Potter; I wrote letters to her, and received others from her, (witness is shewn the letters hereto annexed, C, D, E, F, G, H,) and says they are the letters which I wrote to her, and received from her; it is all the correspondence that passed between us after the death of Mr. Potter; the letters marked C, E, G, and H, were written by me at the times at which they respectively bear date, and were sent by me by mail to my mother, the plaintiff in this suit, to Wilmington, North Carolina; they are all in my own handwriting, and are the original letters written by me to my mother, and are all the letters which I have written to her since the death of her husband, Mr. Potter; the letters marked D and F are letters received by me from my mother in reply to letters which I wrote to her—at least they purport to come from her; I received them as coming from her; neither of them are in my mother's handwriting; letter marked D is in the handwriting of Mrs. Marian Potter, the wife of Samuel R. Potter, one of the defendants in this suit; I know the handwriting of Mrs. Marian Potter from other letters which I have seen, which were written by her; I cannot say that the signature to the letter marked D is my mother's handwriting; it resembles it somewhat, but I cannot say it is hers; the body of the letter is not in her handwriting; the letter marked F is not in her handwriting—neither the body of the letter nor the signature; but I believe she sent this one to me," (witness is shown the letter marked P, hereto annexed,) and says, "I believe this letter to be in the handwriting and signed by my mother's brother, Joseph L. Kay; he is now deceased; he died last summer in this city.

JOSEPH K. EYRE.

Sworn and subscribed before me, this 19th day of November, 1849.

WM. D. KELLEY.

Maria Ashburner, being duly affirmed according to law, doth depose and say:

I am forty-eight years old; I am the daughter of Mrs. Potter, plaintiff in this suit; I am the wife of Mr. Benjamin Ashburner, and reside with my husband in the county of Philadelphia; I corresponded by letter with the plaintiff in this suit, after the death of her husband, Mr. Potter; (witness is shown letters hereto annexed, marked I, J, K, L, M, N,) says they are the whole correspondence that passed between us; that letters marked I, J, L, and N, are the original letters written by me to my mother; they are all in my own handwriting, and were written and sent to my mother at the times at which they respectively bear date; they are all the letters I wrote to her after the death of Mr. Potter; the letters marked K and M, are the only letters received by me from my mother since the death of Mr. Potter; they are both in the handwriting of my mother; (witness is shewn letter hereto annexed, marked D, and says, I believe that the body of this letter is in the handwriting of Mrs. Marian Potter, the wife of Samuel R. Potter, one of the defendants in this suit; I have received a letter from Mrs. Marian Potter, and have seen letters written by her mother, and I have no doubt that the letter marked D was written by her; I know all my mother's friends in Philadelphia, and I know of no other letters having been written to her after the death of Mr. Potter, than those written by myself, my sister, Mrs. Allibone, my brother, Joseph K. Eyre, one by my husband, Mr. Ashburner, and one by my uncle Kay, since deceased; I know of no letters sent, or purporting to be sent, by her, except the letters received by me and my brother, Joseph K. Eyre.

MARIA ASHBURNER.

Affirmed and subscribed before me, this 19th day of November, 1849.

WM. D. KELLEY.

Benjamin Ashburner, being duly sworn according to law, deposes and says:

I am fifty-two years old; I reside in the county of Philadelphia; I am the son-in-law of Mrs. Potter, the plaintiff in this suit; I wrote a letter to her after the death of her husband, Mr. Potter; (witness is shewn the letters hereto annexed, marked O, P,) and says, the letter marked O, was written by me to the plaintiff; it is the only letter I wrote to the plaintiff, and is the original; it had my signature to it when I sent it; it has been cut out; I received no letter in reply from Mrs. Potter, nor any letter from her at any time, since her late husband's death; it was mailed to her about the time it bears date; I know the handwriting of Capt. Joseph L. Kay; the letter marked P, is in his handwriting; he is now dead; I have seen letters written by Mrs. Marian Potter, wife of Samuel R. Potter, defendant in this suit, and I believe the letter marked D, hereto annexed, to be in her handwriting—the body of the letter I mean; I cannot say that the signature to the letter

is in my mother-in-law's handwriting; it resembles her signature, but I think it is rather too free.

BENJ. ASHBURNER.

Sworn and subscribed before me, this 19th day of November, 1849.

WM. D. KELLEY.

I do hereby certify, that the reason for taking the foregoing depositions is, that the witnesses are material and necessary in the cause in the caption of the said depositions named, and that they are residents of the counties of Montgomery and Philadelphia, and State of Pennsylvania, being more than one hundred miles distant from the place of trial of said cause; and that no notice of the time and place of taking said depositions was given by me to the adverse party, or their attorney, because, they were not, to my knowledge, residing within the distance of one hundred miles from the place of taking the same; and I further certify, that the foregoing depositions were reduced to writing by me, in the presence of the said several witnesses, as they were severally examined upon their statements, upon their solemn oaths and affirmations by me first duly administered, and that they subscribed the same in my presence. I have retained the said depositions in my possession for the purpose of sealing up the same, and transmitting them to the court for which they were taken; and I do further certify, that I am not of counsel nor attorney for either of the parties in the said depositions and caption named, nor in any way interested in the event of the cause named in the caption.

In testimony whereof I have hereunto set my hand and seal, this 19th day of November, A. D. 1849.

WM. D. KELLEY. [SEAL.]

PENNSYLVANIA, *Philadelphia county, ss:*

I, Anthony W. Olwine, esquire, prothonotary of the court of common pleas for the county of Philadelphia, do certify, that the honorable Wm. D. Kelley, whose name is subscribed to the annexed certification, and before whom the annexed depositions were taken, was at the time of the taking thereof, and still is, a judge of the court of common pleas for the county of Philadelphia, duly commissioned and sworn; to all whose acts as such full faith and credit are and ought to be given, as well in courts of judicature as elsewhere.

In testimony whereof I have hereunto set my hand and affixed the [SEAL.] seal of the said court, the twentieth day of November, eighteen hundred and forty-nine

ANTHONY W. OLWINE,
Prothonotary.

PENNSYLVANIA, *Philadelphia county, ss:*

I, Edward King, esquire, president of the first judicial district of Pennsylvania, and presiding judge of the court of common pleas, orphan's

court, and court of general quarter sessions of the peace, for the county of Philadelphia, do certify that the foregoing certificate and attestation made by Anthony W. Olwine, esquire, prothonotary of the said court of common pleas, whose name is thereto subscribed, and seal of office affixed, are in due form, and made by the proper officer.

In testimony whereof I have hereunto set my hand, the twentieth day of November, eighteen hundred and forty-nine.

EDWARD KING,
Pres't judge.

A.

HAMILTONVILLE, *June* 16*th*, 1847.

MY DEAREST MOTHER: I cannot express to you my feelings at the sad intelligence of the departure of my beloved father so unexpected. I had heard the day before he was thought to be a little better, and I had hoped he would recover; but, oh how, uncertain is life. May we learn the lesson our heavenly father would have us learn, to be prepared for the summons to render up our account. Oh, it is a solemn thing to die; to enter upon an untried and never ending eternity. I do desire, my dear mother, to make more diligent preparation for it. I sometimes feel afraid that the cares of this life choke the word, cause me to neglect my duties, reading, meditation, and prayer, and render me more worldly minded. You will say, perhaps, I am sorry to hear this. It ought not so to be. I know, my dear mother, as we approach nearer to that house where we must bid adieu to all these earthly scenes, and give an account of all the deeds done in the body; oh, that each one of our beloved family, young and old, may at last become partakers of an "inheritance incorruptible, undefiled, and that fadeth not away." Our time and opportunities may be fewer than we are aware. "The night cometh when no man can work." I was at Princeton when Thomas wrote me the news. I took Elizabeth, Maria, Louisa, and Charles with me; we enjoyed our visit very much; remained nearly two weeks. Cousin Phebe Ann's health is quite delicate; we expected her down two or three days after my return, but she has not yet arrived. Sister Mary was better after she came from Princeton, but she has declined again. Sister Susan appears as well as usual. Sister Fannie desires her best love, and wishes very much to see you; indeed, we all do hope you will come on; surely the ties you have here are stronger than at the south; and why can not dear Marian and Samuel come north this summer; their health will be benefitted, I think, dear mother, and the children, from the sea bathing. Will you not endeavor to make your arrangements to come on soon? We do not know, dearest mother, "what a day may bring forth." Now, while we can enjoy each other's society, how delightful would it not be to welcome you all here. Do not let any thing you can control keep you from coming. I have heard that Mr. William Bradford's wife and daughter had applied for boarding opposite to us, at Miss Morrises. I

do not know whether they will come. How many deaths have occurred since the commencement of this year. Oh, that I could be more profitted by them, and lay to heart the solemn truth, I too must die; how soon is known only to our heavenly father. I believe all your friends are well. We are all very anxious to see you on here; also dear Marian and the children. Dear mother, as there was no will left by father, I hope you will not act in any way without consulting your friends at the north, as well as Mr. Baker. You are not capable, so short [a] time after the decease of father, to decide either way. I would not be hasty. You will not suppose for a moment, dear mother, I write this on my own account. I do not expect or desire anything, but there are others who I think have a claim upon you. May you seek wisdom and grace at the mercy seat. Oh, how much do we need to act aright. May all your trials be so sanctified as to cause you to look unto Jesus in earnest prayer, who hath promised to be a present help in every time of need. We anticipate enlarging our house in a few weeks, making six more rooms and a bath room. I wish you could see dear little Charles Alden; he has grown so much, and we think is very engaging. I think we should feel very thankful for the health of our dear children. My own health is much improved. Cousin Benjamin Valentine's eldest son, about 20 years old, died last week; a great trial to them; cousin Eliza felt it much. I saw sister Anna to-day; Mrs. Hopkins was there packing up to remove into the country to-morrow for some few months. Sister Mary, Susan, Fannie, and Thomas, and cousin Eliza join me in love to you, Marian, and Samuel. The children would send messages but are asleep. Please to give my love to Dr. E. and family, Mrs. Anderson, Mrs. Walker, London, and all my friends in W. and Smithville, Mrs. and Mr. Lord, Thorston, and Mrs. Thomas. May our heavenly father's blessing rest upon you, dear mother. I would pray that father's death may be sanctified to Marian and Samuel, and to us all. We ought to receive it as a warning call to "give all diligence to make our calling and election sure." I hope Mr. Baker will decide to become a follower of the meek and lowly Jesus; I think he would be a useful christian. Will you write very soon, dear mother? I shall be anxious to hear from you. With much love, your affectionate daughter,

EMMA LOUISA.

Directed to Mrs. Elizabeth E. Potter, care of D. B. Baker, esq., Wilmington, N. C.

Post marked Philadelphia, June 19.

B.

GREENWOOD, *July 26th*, 1847.

MY DEAREST MOTHER:

Although I have not received an answer to my last, I have resolved to write again, and tell you how often I think of you, and wish you were here. I was very happy to hear from sister Maria, you expected

to be on in October. I hope, if the will of our heavenly father, you may be preserved in health; but, oh, how many lessons is He daily giving us of the uncertainty of life and health, and all things else beneath the skies. Five of our friends have been called within the last month to that bourne whence no traveller returns. Several weeks since, as we were sitting at the dinner table, one of cousin Eliza's nephews, (Benjamin's son,) called for her to accompany him to see his brother, who was then very ill. She went, and in a few days witnessed the departure of this young man. We urged cousin E., who was looking so delicate, to get off as soon as she could to the sea-shore. She left last Friday week with her brother, who was going to New York. A few days afterwards we heard of the death of the young man who came for cousin E., and last Saturday of the father, cousin Benjamin Valentine. Oh, what a desolate house; the summons may be as sudden to us; shall it find us prepared to meet it with joy and peace? Oh, while we have the opportunity to search and examine our hearts, let us be faithful, dear mother. I often try to recall the last visit father paid us, and can see him sitting in the front piazza, or walking on the gravel walks, and I can scarcely realize he is no more. We, too, may soon be called to follow him, and the places that know us now, may very soon know us no more, forever. Let us pray, then, dearest mother, that our minds may not be too much engrossed by earthly things, or that day will come upon us unawares, and find us not ready. A very dear old lady, living in the yellow house over at the corner opposite to us, 86 years old, who became a christian last year, and with whom sister Emily and myself united with the clergyman, her daughter, cousin, and herself, in her sick chamber, to partake of the holy communion, was taken from her children about ten days since. Oh, how I thought of you, dear mother, and felt thankful you were spared to us. She died so peacefully trusting in her Saviour; no anxious care disturbed her dying hours, but she spoke of leaving her aged husband, nearly 90, and her children, to whom she was devotedly attached, with as much composure as if she was about taking a pleasant journey. Her last feeble words to me were, "God bless you, God bless you." Oh, that her prayer may be heard for me and mine. I knew she prayed for me, oh, how earnestly, when Charles was born. Dear old Mr. McAlpin, too, has been called from our midst; he was one of the oldest inhabitants of this village, much beloved by all who knew him; so humble, kind, and gentle, and very hospitable; his daughter, Mrs. Somerville, who is blind, will feel his loss more keenly, as she used to sit and converse so much with her father about religion; but she will be re-united to him in a brighter world above; she will see eye to eye; his last conversation to her was, Mary, my dear, what a wonderful God he is who takes care of me, watches over me, a worm of the dust, a speck of dust; for dust thou art, and unto dust thou shalt return; but God will reanimate that dust and give it a new body; like this one, she remarked, she hoped to meet him in heaven; he replied, yes, I trust me and mine will all meet before the throne of God. Sister Maria received your letter;

we were happy to hear from you; but I would tell you, dear mother, to pray to our heavenly father, who has said in his holy word "if any of you lack wisdom, let him ask of God, who giveth to all men liberally and upbraideth not, and it shall be given him." I went down to see sister Nancy a few days since; they were well as usual; she expects to come out this week to pay a visit. Sisters Elizabeth and Maria Louisa are pretty well. We anticipate going together to spend the day soon with sister Anna, at the place she boards. Thomas and all my sisters and the children join me in love to you. Fannie says you must soon come on; we will all be so happy to see you; you will be pleased to see the improvement and enlargement of the house; it will be completed, I expect, in a few weeks. Sister Sue is about as usual. Please to give my love to all my friends. Will you not write soon to me? I hope you may be entirely directed how to act, if you have done wrong, you know the promise; if we confess our sins, God is faithful and just to forgive our sins, and to cleanse us of all unrighteousness. I would pray that our heavenly father would pour his blessings upon you and yours; let our motto be—"looking unto Jesus, whatsoever our hands find to do, to do it with our might; for there is no work, nor desire, nor knowledge, nor wisdom in the grave whither we be hastening." Sue sends her love to you and Marian; the children will be so glad to see you; they would send a kiss, if here.

With much love, your affectionate daughter,

EMMA.

Directed: Mrs. Elizabeth E. Potter, care of D. B. Baker, esq., Wilmington, N. C. Post marked 30th July.

C.

PHILADELPHIA, 17*th June*, 1847.

My DEAR MOTHER: I really cannot refrain from expressing my opinion on a subject of delicacy, which must now concern not only yourself, but your children, towards whom it would be impossible to suppose you did not feel a lively and unfeigned regard. It is on the subject of your lamentable position as a widow, and the attempts that may be made to induce you to agree to a settlement of your late husband's estate, should he have left no will, to a less share than the law would entitle you to receive. Whether it should have happened that a will was or was not left, it is common justice to demand and expect your legal rights, because you know a considerable part of his property was obtained by your sister, and which was the foundation for all that has since been added to it; therefore, (as well as for other good reasons,) it should be justly again distributed, more generally among your indigent children; which would not be without you retain your due, both in law and equity. I, therefore, (not that I want any, for I would rather give than take, as poor as I am,) beseech you not to sacrifice your right in the least, were it only for the benefit of your own destitute offspring at your decease. I pray that at this critical time, when your feelings may be

too sensitive, easily influenced to acquiesce in any demand or solicitation, that you will weigh well, without prejudice or bias of any sort, any proposed arrangement which may be submitted and pressed upon you by any step-child, however worthy they may appear to you.

With the best love, and in hopes of soon having you with us, from your affectionate son,

JOSEPH K. EYRE.

I would like you to show this to Mr. Baker.

Directed: Mrs. Elizabeth E. Potter. Care of Daniel B. Baker, esq., Wilmington, North Carolina.

SMITHVILLE, *June 25th.*

MY DEAR SON: I received your letter, and was very glad to hear that you all were well. I and Marian are well, but the children are quite sick. We came down to Smithville on Tuesday. Oh, how much we all miss Mr. Potter; how little did I think I should outlive him; but all is as God pleases; we must put our trust in him, and all will be for the best. In your letter you ask me about the property; well, I will tell you all about it. After Mr. Potter's death, Samuel was much worried because his father did not leave any will, nor make any arrangements so he could get the Point. By his not doing so, it left him without house or land that he could call his own. I think it was very unkind in his father leaving him so; he never did do as much for him as he did for his other children. He was not able to talk during his illness, or I am sure he would have made a will. I asked Samuel how I should act with regard to my share of the property, so as to be most to his and Marian's interest? He said, if I wanted to act for Marian and his interest, secure a handsome income, a home, and live at my ease, and have no trouble about it, would be to give to him my right in the property *to him* for any sum I chose. At first I said $1,000 in cash and $500 a year [during] my life; but, after considering on it, and thinking of Elizabeth, I thought I could not save enough out of it to leave her any thing; so I said I must have $600 a year. This was agreed to, and a deed made out to that purpose. I wanted the $1,000 to keep in case you should be called upon to pay that note against you on account of Emma Thompson; so you may consider yourself clear of that. I shall try and have it arranged next February, when I think Emma will sign her name with the others. I do not intend to give the $1,000, but will make them each a present, if she signs it willingly. Mr. Potter says he does not consider the property as a dower worth much; they could not give me a dower in either of the mills, as Mr. Gause and Dickinson say they must have moneyed partners, that can endorse their notes. Mr. Dickinson would not go on with his mill until he made the whole estate liable for it. Point Peter aint worth any thing without negroes to work it; the house in town is the only thing that would pay, and they would not give that, as they consider Smithville as Mr. Potter's home, and would give me the house down here;

the rest of his property lies in out-lands. The Pierce business has never been settled, and we do not know what amount they may get. Mr. Ashe has also a suit against the estate, for his rice that was burnt in the steam rice mill. The estate cannot be settled until these suits are decided. After this deed was made, I thought I might not live long, and then poor Elizabeth would be as bad off as ever. Mr. Potter saw I was worried, and asked me if I was not satisfied? I said I should like to have given some to Elizabeth after my death. He said he did not want to make a bargain out of me; that is, if I did not wish him to; so he said he would give me $150 after my death to settle on her; a year, I mean; which I think is as much as he can afford to do from my share. The estate owes about $20,000, $9,000 to Mr. Potter; he lent his father all the money he had to buy the mill. You know he bought the mill himself at first. All debts are obliged to be paid out of the personal property, as far as it will go. So your Elizabeth is fixed; while I live I can do for her. This year I shall receive $600 from Mr. Potter, $600 from the court, as my year's allowance, and the $1,000 in cash will make more than $2,000 this year; so, while I live, Elizabeth and myself can get along very well. If I live until February, I shall be on, if not before. Do not let Elizabeth want for any thing. Give my love to all, especially to yourself and Anna. Kiss the children for me. Tell Elizabeth and Maria I shall write a long letter to them next week.

With much love, I remain, your affectionate mother,

ELIZABETH E. POTTER.

Directed: Mr. Joseph K. Eyre, S. E. corner of 13th and Walnut, Philadelphia.

E.

PHILADELPHIA, 8*th July*, 1847.

MRS. ELIZABETH POTTER, Wilmington, North Carolina.

MY DEAR MOTHER: I received a letter dated 25th, posted 27th June, ultimo, signed with your name. I will now direct your attention to the gross errors in this letter.

First. "It is said after Mr. Potter's death, Samuel was much worried because his father did not leave any will, nor make any arrangement, so that he could get the Point; by his not doing so, it left him without house or land he could call his own."

Answer. With regard to his desolate case, how can this be? If he has due to him ($9,000,) nine thousand dollars for money loaned to his father, and his interest in his father's estate ! ! ! But he must be worth more than nine thousand dollars, because he did actually state in this city, that he was personally worth thirty thousand dollars ! ! ! Surely, then, he is not *destitute* with thirty thousand dollars, and his proportion of his parent's estate ! ! with the proceeds from the sale of the Nicetown home property, two thousand and twenty-five dollars ! ! ! and

his wife's interest in her grandfather's property, worth, (it is presumed,) when settled, about one hundred thousand dollars more ! ! ! ! !

Second. "Mr. Samuel Potter says, he does not consider the property as a dower worth much; that they could not give you a dower in either of the mills, as Mr. Gause and Mr. Dickinson say they must have moneyed partners that can endorse their notes, and Mr. Dickinson would not go on with his mill, until he made the whole estate liable for it."

Answer. The business of an executor or administrator is to close an estate with all practicable and reasonable speed. It was your interest to have the mill properties sold or rented, and enjoy your dower from the proceeds thereof; or if suffered to continue in operation, to have participated in the proportion to its earnings; this item, taken alone, would have produced you an income, in either way, beyond the whole compromise, exclusive of various other properties, besides Mr. Potter's interest in the mill, which is real estate; there is his proportion of the capital employed in the business of the mills; this gives you, not a dower or life interest, but a proportion of one third the amount absolutely, or to do with, or will, as you please.

Third. "Point Peter, it is said, aint worth any thing, without negroes to work it."

Answer. Point Peter, with the addition of rice ground purchased of Mrs. Meares, is worth, without a negro about it, at least thirty thousand dollars; and if sold, you would have an income from this land alone of at least six hundred dollars per annum; and further, Mr. Potter informed me last summer, that he had on that estate, and elsewhere, one hundred negroes, which, I understand, was exclusive of perhaps thirty (30,) more he owned, but in the possession of his children; if, say, one hundred (100,) of these were sold at the low price of ($400,) four hundred dollars each, it is a capital derivable of ($40,000,) forty thousand dollars, of which you would be entitled to at least (13,000,) thirteen thousand dollars in your own right, yielding an interest of ($780,) seven hundred and eighty dollars per annum. If the plantation was farmed with, say fifty (50) negroes, the nett income would realize, perhaps, twelve or fifteen thousand dollars per year; so that from this property, supposing one-half of the negroes only employed on it, would give you four or five thousand dollars per year; and your interest in the proceeds of the sale or work of the remaining half of the slaves besides.

Fourth. "It is said the house in Wilmington is the only thing that would pay, and they would not give that up, as they consider Smithville as Mr. Potter's home, and would give you the house down there; the rest of his property lies in out-lands."

Answer. Mr. Potter, some short time previous to his decease, assured Mr. Allibone that the house in Wilmington was not only his, but his home; also this house is worth twelve thousand dollars, ($12,000,) and if sold, or taken by the heirs at its valuation, it would give you a yearly income of two hundred and forty dollars ($240,) per annum; as respects

the assertion of the remaining property being of but small value, let us see; he owned various other properties in Wilmington and elsewhere. I know of a lot of ground he sold to the bank in Wilmington for six thousand dollars, ($6,000,) which he did not live to receive payment for, and is now due his estate; that would give you ($2,000,) two thousand dollars in your own right absolutely. What right had they to dictate to you as to the Smithville property? It is yours, and nothing but an earthquake can take your legal interest of the foot landing from you. The house there is not the only property. I do not know the value of it, or the other properties there. Now, as to the "out-lands," as they are termed, how do you know what they are worth? Some "out-lands" are extremely valuable, and these may be, and likely are; but this is not all; there has been a great mistake of your interest in other portions of his personal property, in which you would enjoy a large interest, not a dower, a life estate in, but an absolute right, whereby you could bequeath the same as you thought proper. There is all his cattle and farming stock, furniture, mortgages, outstanding debts, incorporated stocks, received merchandise, cash on hand, &c., &c., which amount to a very considerable sum, and in which the negroes would be included as personal property; one-third of all these you are entitled to absolutely, to will and bequeath as you please.

Fifth. "It is said the Pierce business has never been settled, and it is not known what amount they may get. That Mr. Ashe has also a suit against the estate for his rice burnt in the steam rice mill, and that the estate cannot be settled until these suits are decided.

Answer. These items, under any circumstances, are of trifling amount, and are scarcely worth notice, and if they are, it would be only to talk about; in conclusion, where is the ($60,000) sixty thousand dollars your sister brought Mr. Potter; let his heirs give you that to do with as you please, and they take the benefit of all that has been added to it. Such a compromise would come only within the pale of justice, though the law would give you in stricter justice far more. I cannot rest quiet with any other views than expressed, viz., that you receive your legal claims, every cent, nothing less; and entreat you, as do all your other children through me, not to do or submit to an act which will entail such misery upon them, reflections upon your good sense and feelings towards us as our mother. As to the arrangements contained in the aforesaid letter, we all say it ought to be broken. It can be annulled, and we undertake, as your children, to say that it ought to be wholly frustrated, whether already completed or not; we know something about justice and law, too, and are determined to prevent any injustice; so that, my dear mother, beware of signing any papers whatever, till you hear further from us, as we will not suffer you to be injured; and most affectionately I conclude, as do all your other children; Maria, Elizabeth, Emma, and Mrs. Allibone, unite in affectionate remembrance.

Sincerely, your affectionate

JOS'H K. EYRE.

P. S. It may be proper to add, that I do know that when Mr. Potter visited this city last summer, he confidently unbosomed his feelings to a friend, and unreservedly informed him that, exclusive of the property he had already given to his children, and after estimating his property at a very low valuation, he could not possibly be worth less than ($130,000,) one hundred and thirty thousand dollars. I, therefore, take this amount as the data of Mr. Potter's circumstances, and if Mr. Potter's candid statements be correct, and I cannot doubt his sincerity, the result would be as follows, namely, one-sixth of the personal estate would go to you absolutely, to do with as you please; and one-third of the income of the real estate, during life only. Now, supposing the estate to be half personal and half real, then you would have ($10,833,) ten thousand eight hundred and thirty-three dollars, as your own absolutely; and the one-third income of the real estate, whatever that might produce, if it only yield (6) six per cent. per annum, your proportion would be ($1,300,) thirteen hundred dollars per annum; and if to this is added the interest on the capital already your's, your income would be ($650,) six hundred and fifty dollars more, or nineteen hundred and fifty ($1,950,) dollars per year, besides the power to bequeath the ten thousand eight hundred and thirty-three dollars, ($10,833.) JOS. K. EYRE.

Directed: Mrs. Elizabeth Potter, care of Daniel Baker, esq., Wilmington, North Carolina.

F.

WILMINGTON, *July* 16*th*, 1847.

MY DEAR SON: I received your letter, but too late, I am sorry to say; I had signed the article; however, I will send you an exact copy. Do, my son, either write immediately, or come; I know not how to act; the lawyer that drew them says they cannot be annulled, but he is interested for the other party; you can consult a lawyer, and I will pay expenses. I would be glad to see you, but fear you would get sick at this season. It was named to me while Mr. Potter was a corpse in the house, and the next evening after he was buried, the lawyer was brought, and I pressed to sign it. I had no time for reflection, and no one to consult with. I wish some of you had come as soon you heard of his death. If you wish me to ask an eminent lawyer, I will do it; write immediately, for I do not know what to do. I am sick; act just as you please. My love to all my dear children.

Your affectionate mother,

ELIZABETH E. POTTER.

P. S. The property has been valued at one hundred thousand dollars.

G.

PHILADELPHIA, *July* 21, 1847.

MRS. ELIZABETH POTTER,
Wilmington, N. C.

MY DEAR MOTHER: Your letter of the 16th instant reached me on

Monday; the statement therein is sufficient, we think, to annul your arrangement with that man, who we propose to make suffer in a two-fold manner; first, by recovery of what is your due; and secondly, by public exposure, as he will be doubtless subjected to in a court of justice. This affair will now prevent any further intercourse with him, and from whom you must entirely separate yourself; and above all things, refuse any part or the whole of the annual payment of six hundred dollars, ($600,) mentioned in the arrangement, and avoid personal conversations on the subject, and more especially signing any paper whatsoever, and consenting to any arrangement, till you hear further from me.

I beg of you to keep this injunction in strict remembrance, and your mind so resolute that nothing can turn you from an honest purpose to frustrate a most wicked scheme, by which your right, and the prospects of your children, are to be inhumanely sacrificed, adding to the wealth of one couple at the expense of your own poor children!

I have placed the papers in the hands of counsel here; and I will write you again to-morrow or next day, directing you how to proceed in the matter.

It is not convenient now for me to visit you, but will endeavor to do so at as early a period as possible, when you must be ready to return with me immediately; but say nothing of this to any body.

Most affectionately we all unite in affectionate remembrances.

Your most affectionate son,

JOS'H K. EYRE.

P. S.—William A. Wright, esq., is Mr. Allibone's attorney, "who you are to engage as yours instantly," provided he is not employed by the opposite party; and to whose care I will hereafter address my letters.

You can show him any previous correspondence which will explain to him what we mean to prosecute, and I will further advise you in my next.

Yours, again, my dear mother,

J. K. E.

Directed: Mrs. Elizabeth E. Potter, care of Daniel B. Baker, esq., Wilmington, N. Carolina. Mailed, 21 July.

H.

PHILADELPHIA, 24*th July*, 1847.

MRS. ELIZABETH POTTER, Wilmington, N. Carolina.

MY DEAR MOTHER: I wrote you on the 21st instant; by this day's mail I have forwarded to William A. Wright, esq., a copy of our late correspondence in regard to the trumpery and illegal arrangement with Mr. Samuel R. Potter, with a request that he would bring an action at once against the administrators, and receive from you a minute statement of facts. I have requested him to show you my letters.

I have no doubt that you can succeed in setting these instruments aside; they were signed by you in entire ignorance of your rights, in a

moment of great affliction, and upon very erroneous statements in regard to the estate, if I may judge by the letters written in your name, dated 25th June.

Do not accept any portion of the annuity, for that will tend to confirm what you have done; and keep in good spirits, and place yourself under the care of Mr. Wright.

I hope to write you shortly again, and to be with you as soon as I can arrange my business.

Most affectionately, my dear mother, my sisters join me with our best wishes for your health and happiness and sincere love, from your affectionate son, JOS'H K. EYRE.

Directed: Mrs. Elizabeth Potter, care of Wm. A. Wright, esq., Wilmington, N. Carolina. Mailed, 24 July.

I.

HAMILTON VILLAGE, *June 19th*, 1848.

MY DEAR MOTHER:

Since the death of uncle Potter I have been waiting with much impatience to know when we might expect you on here, thinking perhaps you would feel a void that none but the maternal ties of a mother would be able to fill, but in the society of her children; but to my sad disappointment, I have learned, from more than one source, that you contemplate not to come north until next winter or spring; is it so or not? Why do you not come sooner? Most of your friends think you had better come at once, or as soon as you can arrange matters so as to leave south and recruit your health; but should you delay and stay during the summer months, I shall almost despair of ever seeing you again in this world, for your health has been so much enfeebled by often repeated attacks, I think you might not recover another such as you have had. Put your business into the hands of some of your law friends, and leave them to settle it. I have understood uncle Potter made no will; if so, I hope you will take all the law gives you, as then it would give you an opportunity of making ample provision for yourself during your lifetime, and then you could, if you saw fit, leave what you did not need to uncle Potter's heirs; but do not, under any circumstances, permit any one of your friends, or any one of uncle Potter's family, to work on your feelings to induce you to do what would be injustice to yourself or any of your own children, destitute and needing a mother's care. Elizabeth needs your sympathies now as much as any period of her life, and have thought much within a few days how happy she would be to have you with her. She was much excited last evening in consequence of the discouraging news she had heard from you. Do not suffer any one to betray you to do what you *what you* will always regret. You have some good friends here able to advise, and do not act without their advice. Uncle Joseph, I understood, wished to write to you, but was prevented from the gout in his hand. There is Joseph [and] Thomas Allibone, who are very much interested in your welfare;

more than others south could possibly be, whose advice would be more to your good than any you could find, where interest is at stake. Take, I again say, all the law gives you to the last cent; then you can make your own disposition of it; and if you do not, most seriously will you regret it henceforth; most sincerely do I hope what is said of you is not true, that, like Esau of old, you have sold your birth-right for a mess of pottage; I cannot hardly believe it, but hope better things of you; there are many arguments to justify you in what I recommend, without any disrespect to the memory of uncle Potter; I must say from what I have had from aunt Potter's own lips, and others who were well acquainted with her circumstances, must have been indebted to her for the wealth that estate has attained. It will be only 3 weeks to-morrow since uncle Potter's decease; I would shrink from intruding upon the grief of the family by this letter, had I not sufficient ground for so doing. We are all tolerably well; I have been much afflicted with rheumatism; it has been uncommonly prevalent this season; give my love to Marian; hoping to be permitted to meet once more here on earth, and spend the remainder of your days with your own children, is the prayer of your affectionate daughter,

MARIA ASHBURNER.

Directed: Mrs. Elizabeth Potter, Smithville, North Carolina. Politeness of Mr. G. W. Davis.

HAMILTONVILLE, *July 4th*, 1847.

MY DEAR MOTHER:

Brother Joseph read me a letter dated Smithville, June 25th, 1847, and post marked June 27th, purporting to be a letter from you, although not signed by you, nor can I judge what it attempts to explain; but let me note the contents of that letter as well as I can recollect them. It says after the death of uncle Potter, Samuel Potter was very much worried because his father did not leave any will. In all probability he will find himself much better off than if his father had made a will. I think his father had too high a sense of justice to his other children to have left him an undue proportion of his estate, to the exclusion of his other children. I can imagine your feelings worked upon to put such a question to Mr. Potter as that letter states, "you asked Samuel how you should act with regard to your share of the property, so as to be to his and Marian's interest; he said if you wanted to act for his and Marian's interest, secure a handsome income;" (what does he call a handsome income, as Thomas says, not enough to take care of you,) a home, and live at your ease, and have no trouble about it, would be to give him your rights in the property for any sum you chose. Now, mother, could you so far forget the first pledges of a mother's love as to forget you had one child that claims a mother's sympathies, now more than all others; and to be candid I think myself entitled, (not to a portion of uncle Potter's estate but to my aunt's;) as to Marian, I am at a loss to know in what scale you weigh her interest that should ponderate

so much to her interest above all your children and grand-children; she certainly is, and that you know full well, in a temporal point, better off by far than any other member of your family; and why sacrifice all to her interest? It was Mr. Potter's interest, should Marian die before Mr. Potter, and it is as likely for him to bury two wives as his father; where would be her interest, or what would Mr. Potter care for your family? Her children, too, are well provided for; $100,000 from their grandfather's estate. No, the link would then be broken south, as a very near and dear friend remarked to me the other day. Mr. Potter has made you believe your dowry would not be much; at first you said $1,000 in cash; the very idea swells in my bosom, such contempt words nor can pen express; the very idea of selling from $20,000 to $30,000; your interest in the real estate alone is worth more per annum than all he wishes to give you, for real and personal together. We have heard what the law was, and what a widow's right was; as to your saving enough out of 500 or 600 a year, to benefit Elizabeth should she live longest, it is out of the question; it would not pay your own expenses, particularly in a protracted illness. I could go on and fill this sheet with remarks on the other portion of that letter, but it was too full of absurdities to make any more comments; it makes me so nervous and agitated I can hardly hold my pen; to think of uncle Potter, not dead two weeks, as I suppose from the date of the letters that have come, that your feelings should be so much worked upon to do as you say in that letter you did; every body that has heard of it, and many, very many have, thinks it was awful; uncle himself, could it be possible that any one, let alone an only son's heart, be so cold as to forget a father in so short a time. Oh, could that father have been permitted to look down upon such a scene, and see his only son so much worried about things temporal, losing sight of those eternal, frustrating the designs of Providence in taking his father from them so suddenly, and in that it was enough to have made them mourn in sackcloth and ashes. I should like to have heard more about his death. I will trust it may be sanctified to all his family, from the youngest to the oldest. When I forget my father may memory cease to act. You say you intend to remain south until February. I cannot imagine what should keep you there so long; have you no ties here any more? Elizabeth's health is never good during the summer months, she has had often spells, I never let you know. I have been kept in constant anxiety; I have taken my children from school and sent them to stay with Maria Louisa, and her circumstances, too, are so limited; I have done myself and Mr. Ashburner as much or more than others, according to his means with such a family; this place he purchased in hopes of having a home in his old age, but he has it now up for sale, as he cannot keep it; it would have been far better for him if he had done as others have done, studied his own interest more; and I plead Elizabeth's case to Emma, when I know she needs, for she would on no account than make her wants known; and Maria Louisa too, but Emma told me she was glad when she found you would have it in your power to make her comfortable,

as Thomas would not feel for her if she was dead, as he does now; Sarah told me when she gave her ten dollars when she went to come away, she could do no more; her rent last year went to repair the *wharf* of her house, &c., &c. Thomas Allibone said when he heard you had acted thus towards Mr. Potter he would not believe, for you certainly would consult your friends first here, and then he wont believe it. Now, she paid her baker's bill, her coal bill, and Maria Louisa got a bonnet out and out for $2; now what has she left to keep her on unless supplied by friends; you know very well how it was when you were here last summer about the shoes. Molly was invited but declined. I told you I guess I know the cause for want of shoes; you gave her money to go and buy a pair; I told you she had no money to ride in, and it was in the heat of the day; I lent you 10 cents, as you had no more over the shoe money; Thomas invited her to go with him and Emma to Bordentown; she declined; I knew the cause; as before, her bonnet was too shabby; an old one, she wore all last summer, and so it is in every thing; there is a bill standing of Dr. Evans, for 5 years, only $30, and should she have a spell again I shall be ashamed to go to him. Now, these things have always been kept from you; but in justice to all your children I must bring them before you now; you have it in your power to remedy; your friends are all very indignant to think you could have been made to act thus, after so much excitement and fatigue undergone through uncle Potter's sickness, and Mr. Samuel Potter worrying you; you have not acted voluntarily. Uncle Potter knew the law made a good will, or he would have made one; he knew in justice we all had a claim in that estate, as it was originally aunt Golden's; Providence too interfered, so that justice should be done to your children in not permitting him to speak for, and perhaps Mr. Potter might have got him to make a will.

Yours, affectionately,

MARIA ASHBURNER.

Directed: Mrs. Elizabeth Potter, Smithville, North Carolina.
Politeness of Mr. John Christian.

K.

My dear Maria: I have received your letter; I thank you for it, also your candor; it is what I wanted. I can only write a few lines; you know I cannot write, and I do not like to get any one to write for me. I am glad you are all well except Elizabeth; I hope she will [be] better soon. When I see you I will tell you everything. I expect to go north in October; I hope Marian will go with me. Mr. Potter cannot leave home. Marian's children *is* not well; she has plenty of help to help her. It is true we have had great trouble; so far I have been supported in it. My health is much better since I came here. If Marian cannot go with me in October, some one of the family must come to stay with her. Maria, when I go on I will do some-

thing for you; I will do everything I can. Give my best love to Elizabeth; tell her I will write to her soon. I will pay the doctor's bill. O, Maria, see that she has things comfortable; tell her to get things at the store; I shall have money in October; I will pay the first of November. See that she and Maria L. has shoes, every thing comfortable; tell her to get wood and coal, I will engage to pay when I come on. If I should die before that time, you will find everything fixed to fulfil all my engagements by a friend who will step forward—one that loves you dearly; and any summer you will take them to board they would be glad. I will also send you a writing to make you sure for the amount she gets, or you get for her. I will also secure your present.

SMITHVILLE, *July* 11*th*.

Marian and myself longs to see you all. I am treated very kind. Give my best love to Ann Thompson and family; tell her to write to me immediately; let me know how she is, and the family; tell her I will answer it as soon as I receive it; she must tell me where to direct; she must be very particular; I am afraid if I direct to her house she will not get it. Tell her I expect to be on in October, if I am spared. Please to answer this as soon as you receive it. My best love to yourself and all your family, and all friends. Your affectionate mother,

ELIZABETH E. POTTER.

Burn this.

The people here think I have no friends, none coming to see me; I tell them they are afraid they will get sick. I am sad.

Directed: Mrs. Maria Allibone, care of Rowly & Ashburner, Philadelphia.

L.

HAMILTONVILLE, *July* 17*th*, 1847.

MY DEAR MOTHER: You cannot imagine the pleasure it gave us all to have a letter from you in your own handwriting. As to burn it, I never shall. I was sick in my bed when I received it. I had been in town that day, and went home quite sick. Algernon and Sallie came over (they are boarding at that house on the turnpike [road] where we used to live) to take tea with me, but the children had to entertain them, as I was sick in my bed. Allie was very glad to hear your letter read. Elizabeth and Emma came down to see me, as they heard I was sick. I told them I got a letter from you, but you told me to burn it. Elizabeth immediately replied, "You had better put it in a frame, and hang it alongside of my father," whose profile I have in a frame hanging up. They were delighted to hear that you expected (if spared) to come on in October. Elizabeth has been sick with the diarrhœa, but is now better. Molly is well. Emma spent last Wednesday with her; took her some lamb to make her some soup. Thomas Allibone is down at Cape May. He is not well; he had the influenza in the spring, but does

not seem to get entirely over it. He was down 2 weeks ago with Emma and 4 of the children, and nurse came home, and went down again, and took Frank; he will remain until he gets better. The rest of Emma's family are well. Emma, as usual, not very well; having to nurse so large a boy is very debilitating. Sarah's family are all well. No, William is very much afflicted with the gout, and looks, Sarah writes, miserably, he suffers so much. Joseph is not very well; he has the chills every morning, and then little Charlie has them. I saw him last night; he would have been on to see you, but was afraid, as his constitution is now in such a state to take southern fevers. He and I were agoing on 4 weeks ago. Mr. Ashburner told me I might go with him. We went up in the evening to see Thomas Allibone about it, and he told Mr. Ashburner if he wanted to be a widower to let me go, but he would not have let his wife; so that put a stop to my going. I was very sorry, as I would not have been afraid myself. No one for a moment could possibly think you had no friends, for if you have not seen any of them personally, you have by writing found to the contrary. I only wish, mother, you had thought so yourself, as to have asked their advice, or your friends south, for you certainly have them there. I have not seen Nancy to ask her yet where you shall direct, but direct to Rowley and Ashburner, if you want to write before I see her. Your next letter direct to them on my responsibility. I know she will get it. I started yesterday to see her, (before I wrote, to tell you something about them,) but got half way, and had to turn back, as I was too weak to go any further. I saw Sarah last Saturday; she says her mother is the same. I think she is now in a settled consumption; she expectorates very much, and looks most miserably; the rest are all well. The rest of your friends are all well. My own family well, except Algernon. I heard last night he was not well. I have no news to tell you. Tell Marian I received her letter: and glad to think she remembers aunt Maria. It was the first letter I ever got. I was not in possession of any news at that time, or would have answered it, for I was in a constant state of excitement and displeasure at the proceeding south. Tell her Elizabeth sends her love to her, and I tell her, for she is so modest she thinks no one takes notice, she is in the family way. Julia is not. Sallie is. Give my love to her and her little children, and tell her to write to me again; when I have anything worth communicating, I will write. I love Marian, and always did. She was a particular favorite, not only of mine but everybody's. I do not blame her at all; she could not help what her husband done, for in her heart she knew she had enough of this world's goods, and to spare, for herself and children. Marian has father and mother, sisters, brother, plenty of money; she is not bad off in a temporal sense. No, and it is very needful to have those things, and necessary; but lacking the one thing needful, the right and title to the great inheritance above, to the house not made with hands, eternal in the heavens, we would be still worse than beggars. I hope and pray Marian may be brought under the influence of the Holy Spirit, to lay

her treasure up in heaven. Kezia told me to tell you she thinks she can see you all in Smithville, and your doings. Do write soon again, and let us know more particularly how you have arranged your affairs. I hope, according to the widow's right, you have taken to yourself all the law allows you, so as to give to your own children what would be due to them from you, and to no one else.

With much love, from your affectionate

MARIA.

Directed: Mrs. Elizabeth Potter, Smithville, North Carolina.

M.

SMITHVILLE, *July the 22d.*

MY DEAR MARIA:

I have *wrote* two letters to you and received no answer. I wish you would see Joseph, and ask him what I am to do; how I am to act; put me in a way how to proceed. Samuel says he will not give it up; tell how I am to begin; it ought to be done soon; I will do all I can. I beg Joseph to tell me; as soon as you receive this you write; tell me how you all are. If I do not hear soon from you, I shall lose my senses. Sam. has acted with a great deal of deception. I say with truth I pray that Joseph will tell me soon, or come to see me; if he thinks he could do any thing, he must tell me his opinion on the papers I sent him. Sam. says if Mr. Fotterall says give them up, he will. I hope he will say give them; how thankful I shall be. Tell Joseph I intend to put down every thing from the time Mr. Potter died until now, to have it ready. Oh, mercy, write to me. Love to all.

Your affectionate mother,

E. E. POTTER.

Directed: Mrs. Maria Ashburner, care of Rowley & Ashburner, Philadelphia.

N.

HAMILTONVILLE, *July 28th*, 1847.

MY DEAR MOTHER:

I have just received a letter from you, dated July 22d. You mentioned having written two letters to me, and no answer. It is most astonishing how to account for it; [it] is very strange. My last letter to you was written July 17th, wherein I was very explicit about all your friends you mentioned in your last letter but one. The people south thought you had no friends, as none went on to see you in your trouble. I do not wonder they might think so, not knowing circumstances. You have but one son, and he is situated so, just now, it is impossible to go; he has had the chills, and Anna expects to be confined in September, but he and I were agoing on. Mr. Ashburner said I might go; we went up to Thomas Allibone's that evening, and told him; he told

Mr. Ashburner if he wanted to be a widower to let me go. So that put a stop to my going. I should not have been afraid of the climate myself; I would have been so glad to have been with my mother. I will tell you, as far as I know, about our friends. Nancy is only tolerable; she is, I think, in a consumption; she expectorates very much; the rest of her family are well. Mr. Allibone has been to Cape May; he is confined to his house, much afflicted with biles; the rest of the family are all well. I took your letter up to show Emma; she said she was just writing to you. Elizabeth is as well as common during the summer; she has not been any where this summer; she cannot go to Cape May, as she has not the means; I wish she could, as it always helps her so much. Maria Louisa is well. Uncle and family are well, and I believe all the rest of your family. My own are very well. Elizabeth expects to get to housekeeping, next week, in that house we lived in before we bought this—the corner of the Darby road and Locust street. There have been a great many deaths this summer. Mrs. Cushing was buried last Wednesday. Benjamin Valentine and his two sons, one 20 and the other 23, and engaged to be married, all died within 6 weeks; supposed to be ship fever. Mr. Valentine had hired an Irishman just from Ireland, and supposed [he] must have brought it off ship. I expect Emma has given you all the news in her letter. I am sorry, very sorry, my dear mother, you have so much trouble. You have been treated shamefully; instead of having this trouble, you might be allowed to have your latter days to glide calmly and quietly on; but, dear mother, be of good courage; be firm; ask direction from the widow's God, and he will strengthen thine heart, and will bring all right and justice—

> "When through the deep waters I call thee to go,
> The rivers of woe shall not thee overflow;
> And, tho' all hell shall endeavor to shake,
> I'll never, no never, no never, forsake."

The cloud may be heavy, but it will disperse, and your latter days may be as calm and clear as a summer eve. Be not afraid what man can do; only try to keep firm, steadfast, unmoveable; and may the great God of Heaven and earth, our heavenly father, direct, control, and order all things for your temporal and eternal welfare, is the prayer of your affectionate daughter,

MARIA.

Read the 37th psalm.

P. S. Since writing this, Joseph has been here; I showed him your letter; he says make Mr. Wright your friend; and if you want any friends send to him or Mr. Allibone. I do wish you were here now, if you had to go back again for a season. I hope we all may be spared to meet again.

Directed: Mrs. Elizabeth Potter, care of Daniel B. Baker, esqr., Wilmington, North Carolina.

O.

PHILADELPHIA, *July 8th*, 1847.

Mrs. ELIZABETH POTTER.

DEAR MOTHER: In taking a retrospective view of things past, there has not any thing transpired within my recollection, that seems to have produced in the minds of those of your kindred so much of the worst kind of feeling to which the human heart is prone, as the recent acts as communicated in regard to the disposition of your portion of Mr. Porter's estate; there appears to be but one opinion amongst your own children, and in fact throughout the whole family connexion; and from the best information I can obtain, there is some you may consider closer connected, that do not sanction what has been done, any more than other members of of the family; but owing to the peculiar circumstances of connexion, they prudently forbear expressing their opinion. I know it has already produced unpleasant feelings between brother Joseph and some of the family; and further, I know that Joseph has been censured by most of his connexion for not being more prompt in acting out sooner, what he says he is determined, at all hazzards, shall be done in the premises; the only opinion I ever heard Mr. Allibone express on the subject, was that he could believe you could have acted so unadvisedly as to have done what appears to a rational mind so much adverse to you and interest, particularly taking into consideration all circumstances connected therewith. It is not my intention to enter into a discussion of what has been done, or the motives that prompted those actions; but merely to ask you to set, if possible, aside all that has been done by prompt and decisive steps, as I do firmly believe your son Joseph will not leave a mountain or a feather unturned, that will enable him to accomplish that object. On this subject, also, there is but one opinion throughout the whole connexion. I have endeavored in as plain a manner as possible, to let you know what the desire of your children is. They have taken legal advice on the subject, and are informed you have it in your power to revoke at once all that has been done, and place yourself in the same position you stood the first hour you were a widow; they want you to take what the law gives, and should it give nothing, it would satisfy them better than the pittance now offered you.

It is with the utmost reluctance I have penned one word on this subject, and only from the often repeated solicitations of the family, and a firm conviction of the interest I have found myself compelled to take in some of the family, I now comply, and do hope I have said nothing but you may construe to the motive that has always actuated me through life, to do justice to all, and live peaceably with all. Maria says she is as well as circumstances will permit her to be; but Elizabeth has been under constant excitement since the letter announcing the death of Mr. Potter; all others are well, and believe, me affectionately yours.

(Name cut out.)

P. S. You will hear from Joseph in a few days.

Directed: Mrs. Elizabeth Potter, care of Daniel B. Baker, esq. Wilmington, N. Carolina.

P.

PHILADELPHIA, *June* 18*th*, 1847.

MY DEAR SISTER:

I have heard of the decease of your husband; he has paid the debt we must all pay sooner or later. I have frequently been told that he was very wealthy; no doubt he has left a very large estate; and I hope he arranged his affairs and left a will, so as to have his arrangements carried out. My dear sister, you have frequently asked my advice on matters and things, but in many instances you have not taken it; I will now offer it, although not solicited, and that is, as a widow to insist on having your rights, and if you have to resort to legal means, it will be better than to give up one jot; the heirs and your friends will respect you the more. Our sister 1*st* first husband left her a very handsome fortune; Mr. P. having been left his executor, paid his addresses to her while settling the estate, and she became his wife before the estate was settled; I think she never knew the amount of her fortune; still there is no doubt in my mind that it was the corner-stone of the foundation of Mr. P's fortune. I now warn you against putting off with any small pittance they may think proper to offer you annually by way of compromise; get what the law allows you, let it be small or let it be large; for then should you be able to save something, you can give it to whom you please; you have poor relations, and what you can spare would be of great service to them; even Mr. P's children, should you have to spare, you could give to those who treated you with the most kindness; in nine cases out of ten, a widow that insists on her having her just rights, will be more respected; still ask for nothing that is not strictly just. Your friends here are, I believe, in reasonably good health, may God bless you.

Your affectionate brother,

J. L. KAY.

To Mrs. E. E. POTTER.

Directed: Mrs. Potter, Wilmington, N. Carolina.

The foregoing depositions came to hand the 22nd November, 1847.

W. H. H. *Clerk.*

Opened in court.

W. H. H. *Clerk.*

And afterwards, to wit, at the circuit court of the United States, for the district aforesaid, present, the honorable James M. Wayne and the honorable Henry Potter, on the Monday next preceding the first Monday of December, anno domini eighteen hundred and forty-nine, in the canse aforesaid, wherein Elizabeth E. Potter is complainant, and Samuel R. Potter and Mauger London are defendants, the said court did adjudge and decree as follows, which is entered of record in said court, to wit:

ELIZABETH E. POTTER
vs.
SAMUEL R. POTTER and MAUGER LONDON.

This cause came on to be heard at this term, and was argued by counsel; and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed, as follows, to wit, that the plaintiff's bill be dismissed, with costs.

And thereupon, at the same term, when the said decree was made, on motion of plaintiff's solicitor in open court, it is ordered, that an appeal in this cause be allowed to the Supreme Court of the United States, at Washington, returnable to the term thereof next succeeding the first of January, 1850, provided the complainant shall give a bond for the costs in the sum of five hundred dollars.

Bond given, approved, and filed; which bond is hereto annexed.

Circuit court of the United States, in and for the district of North Carolina, to wit:

I, William H. Haywood, clerk of the said court, do hereby certify the above and foregoing to be a true exemplification of the record of the cause of Elizabeth E. Potter, complainant, and Samuel R. Potter and Mauger London, defendants, containing the original bill, the answers of the said defendants, the subpœnas issued in the cause, the testimony taken and filed, the exhibits filed by the complainant, the exhibits filed by the defendants, the interlocutory orders, and the final decree in the cause.

In testimony whereof I have hereunto set my hand, and affixed the seal of said circuit court of the United States, at the city of [L. S.] Raleigh, the twenty-ninth day of November, in the year of our Lord one thousand eight hundred and fifty.

WM. H. HAYWOOD, *Clerk.*

Bond for costs of appeal.

Know all men by these presents, that we, Benjamin Ashburner and Joseph K. Eyre, of the city of Philadelphia, in the State of Pennsylvania, are held and firmly bound unto Samuel R. Potter and Mauger London, in the full and just sum of five hundred dollars, to be paid to the said Samuel R. Potter and Mauger London, their certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals, and dated this eighteenth day of March, in the year of our Lord one thousand eight hundred and fifty.

Whereas lately, at a circuit court of the United States, for the district of North Carolina, in a suit depending in said court between Elizabeth Potter, complainant, and Samuel R. Potter and Mauger London, defendants, a decree was rendered against the said Elizabeth Potter, and the said Elizabeth Potter having obtained an appeal to remove the said cause to the Supreme Court of the United States, to be holden at Washington the first Monday of December next ensuing said appeal:

Now, the condition of the above obligation is such, that if the said Elizabeth Potter shall prosecute her said appeal to effect, and answer

all damages and costs if she fail to make her plea good, then the above obligation to be void, else to remain in full force and virtue.

BENJ. ASHBURNER, [L. S.]
JOSH. K. EYRE. [L. S.]

Sealed and delivered in presence of—
WM. S. PEIRCE,
J. BURCHARD.

Approved by

J. K. KANE,
D. J. U. S., E. D., Pa.

Approved:

H. POTTER,
Judge U. S. district, N. C.

Filed 6th December, 1850.